Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023

Number 26 *of* 2023

HISTORIC AND ARCHAEOLOGICAL HERITAGE AND MISCELLANEOUS PROVISIONS ACT 2023

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Acts Referred to

Ancient Monuments Protection (Ireland) Act 1892 (55 & 56 Vict. c. 46)

Ancient Monuments Protection Act 1882 (45 & 46 Vict. c. 73)

Ancient Monuments Protection Act 1910 (1 Geo. V. c. 3)

Arbitration Act 2010 (No. 1)

Architectural Heritage (National Inventory) and Historic Monuments (Miscellaneous Provisions) Act 1999 (No. 19)

Civil Service Regulation Act 1956 (No. 46)

Companies Act 2014 (No. 38)

Coroners Act 1962 (No. 9)

Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 (No. 4)

Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50)

Criminal Justice Act 1951 (No. 2)

Criminal Law Act 1997 (No. 14)

Criminal Procedure Act 1967 (No. 12)

Defence Act 1954 (No. 18)

Derelict Sites Act 1990 (No. 14)

Disability Act 2005 (No. 14)

Environment (Miscellaneous Provisions) Act 2011 (No. 20)

Fines (Payment and Recovery) Act 2014 (No. 7)

Foreshore Act 1933 (No. 12)

Foreshore Acts 1933 to 2022

Forestry Act 2014 (No. 31)

Heritage Act 1995 (No. 4)

Holycross Abbey (County Tipperary) Act 1969 (No. 7)

Irish Church Act 1869 (32 & 33 Vict. c. 42)

Irish Church Act Amendment Act 1881 (44 & 45 Vict. c. 71)

Irish Land Act 1903 (3 Edw. 7 c. 37)

Irish Land Commission (Dissolution) Act 1992 (No. 25)

Land and Conveyancing Law Reform Act 2009 (No. 27)

Lands Clauses Acts

Legal Services Regulation Act 2015 (No. 65)

Local Government (Sanitary Services) Act 1964 (No. 29)

Local Government (Sanitary Services) Acts 1878 to 2001

Local Government Act 1946 (No. 24)

Local Government Act 1991 (No. 11)

Local Government Act 2001 (No. 37)

Local Government Acts 1925 to 2022

Local Government Rates and other Matters Act 2019 (No. 24)

Lough Corrib Navigation Act 1945 (No. 37)

Maritime Area Planning Act 2021 (No. 50)

Maritime Area Planning Acts 2021 and 2022

Maritime Jurisdiction Act 2021 (No. 28)

Maritime Safety Act 2005 (No. 11)

Mercantile Marine Act 1955 (No. 29)

Merchant Shipping (Registration of Ships) Act 2014 (No. 43)

Merchant Shipping (Salvage and Wreck) Act 1993 (No. 34)

Minerals Development Act 2017 (No. 23)

Ministers and Secretaries Act 1924 (No. 16)

Ministers and Secretaries Acts 1924 to 2017

National Archives Act 1986 (No. 11)

National Cultural Institutions Act 1997 (No. 11)

National Monuments (Amendment) Act 1954 (No. 37)

National Monuments (Amendment) Act 1987 (No. 17)

National Monuments (Amendment) Act 1994 (No. 17)

National Monuments (Amendment) Act 2004 (No. 22)

National Monuments Act 1930 (No. 2)

National Monuments Acts 1930 to 1994

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Occupiers' Liability Act 1995 (No. 10)

Petty Sessions (Ireland) Act 1851 (14 & 15 Vict. c. 93)

Planning and Development Act 2000 (No. 30)

Planning and Development Acts 2000 to 2022

Police (Property) Act 1897 (60 & 61 Vict. c.30)

Poor Relief (Ireland) Act 1838 (1 & 2 Vict., c. 56)

Prisons Act 2007 (No. 10)

Prompt Payment of Accounts Act 1997 (No. 31)

Public Health (Ireland) Act 1878 (41 & 42 Vict. c. 52)

Registration of Title Act 1964 (No. 16)

Sale of Goods Act 1893 (56 & 57 Vict. c. 71)

Shannon Electricity Act 1925 (No. 26)

State Property Act 1954 (No. 25)

Statute of Limitations 1957 (No. 6)

Succession Act 1965 (No. 27)

Taxes Consolidation Act 1997 (No. 39)

Tourist Traffic Act 1952 (No. 15)

Valuation Act 2001 (No. 13)

Valuation Acts 2001 to 2020

Wildlife (Amendment) Act 2000 (No. 38)

Wildlife (Amendment) Act 2023 (No. 25)

Number 26 *of* 2023

HISTORIC AND ARCHAEOLOGICAL HERITAGE AND MISCELLANEOUS PROVISIONS ACT 2023

An Act to repeal the National Monuments Acts 1930 to 2014 and replace those Acts with provisions for the protection of historic heritage, provisions for the protection of archaeological heritage, provisions for the regulation of certain activities in the interests of such protection and provisions enabling the State to ratify or accede to certain international conventions which relate to such protection or regulation; to give effect to the EIA Directive and the Habitats Directive in relation to the carrying out of works at, on, in, under, to, or within the immediate surroundings of monuments; to give further effect to the Valletta Convention; to consequentially repeal or amend certain other enactments; to make miscellaneous amendments to the Foreshore Act 1933 , the Lough Corrib Navigation Act 1945 , the Planning and Development Act 2000 , the Wildlife (Amendment) Act 2000 , the Valuation Act 2001 , the Local Government Act 2001 , the Environment (Miscellaneous Provisions) Act 2011 , the Local Government Rates and other Matters Act 2019 , the Maritime Area Planning Act 2021 and the Wildlife (Amendment) Act 2023 ; and to provide for related matters.

[13*th October*, 2023]

Be it enacted by the Oireachtas as follows:

PART 1

Preliminary and General

Short title and commencement

1. (1) This Act may be cited as the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023.

(2) *Chapter 1* of *Part 13* and the Foreshore Acts 1933 to 2022 may be cited together as the Foreshore Acts 1933 to 2023.

(3) *Chapter 3* of *Part 13* and the Planning and Development Acts 2000 to 2022 may be cited together as the Planning and Development Acts 2000 to 2023.

(4) *Chapter 5* of *Part 13* and the Valuation Acts 2001 to 2020 may be cited together as the Valuation Acts 2001 to 2023.

(5) *Chapters 6* and *7* of *Part 13* and the Local Government Acts 1925 to 2022 may be cited together as the Local Government Acts 1925 to 2023 and shall be construed together as one.

(6) *Chapter 8* of *Part 13* and the Maritime Area Planning Acts 2021 and 2022 may be cited together as the Maritime Area Planning Acts 2021 to 2023 and shall be construed together as one.

(7) This Act (other than *sections 225* , *227* , *228* , *231* , *233* , *234* , *238* , *239* , *240* , *242* and *243* and *Chapters 2* and *6* of *Part 13*) shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes and different provisions.

(8) *Section 242* shall come into operation on such day or days as the Minister may, after consultation with the Minister for Agriculture, Food and the Marine, by order or orders appoint either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes and different provisions.

(9) *Sections 227* and *234* shall come into operation on such day or days as the Minister may, after consultation with the Minister for Tourism, Culture, Arts, Gaeltacht, Sports and Media, 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.

(10) *Section 228* shall come into operation on such day or days as the Minister may, after consultation with the Minister for Defence, 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.

(11) *Sections 231* and *238* shall come into operation on such day or days as the Minister may, after consultation with the Minister for Transport, 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.

(12) *Sections 233* , *239* and *240* shall come into operation on such day or days as the Minister may, after consultation with the Minister for Justice, 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.

(13) *Section 243* shall come into operation on such day or days as the Minister may, after consultation with the Minister for Environment, Climate and Communications, 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.

Interpretation - general

2. (1) In this Act—

"AA" means appropriate assessment;

"act" includes an ongoing activity;

"Act of 1869" means the Irish Church Act 1869 ;

"Act of 1878" means the Public Health (Ireland) Act 1878 ;

"Act of 1882" means the Ancient Monuments Protection Act 1882;

"Act of 1892" means the Ancient Monuments Protection (Ireland) Act 1892;

"Act of 1903" means the Irish Land Act 1903 ;

"Act of 1910" means the Ancient Monuments Protection Act 1910;

"Act of 1925" means the Shannon Electricity Act 1925 ;

"Act of 1930" means the National Monuments Act 1930 ;

"Act of 1954" means the National Monuments (Amendment) Act 1954 ;

"Act of 1956" means the Civil Service Regulation Act 1956 ;

"Act of 1964" means the Registration of Title Act 1964 ;

"Act of 1987" means the National Monuments (Amendment) Act 1987 ;

"Act of 1993" means the Merchant Shipping (Salvage and Wreck) Act 1993 ;

"Act of 1994" means the National Monuments (Amendment) Act 1994 ;

"Act of 1995" means the Heritage Act 1995 ;

"Act of 1997" means the National Cultural Institutions Act 1997 ;

"Act of 2000" means the Planning and Development Act 2000 ;

"Act of 2001" means, other than in *Chapter 4* of *Part 13* , the Local Government Act 2001 ;

"Act of 2014" means the Companies Act 2014 ;

"Act of 2021" means, other than in *Chapter 8* of *Part 13* , the Maritime Jurisdiction Act 2021;

"amenity", in relation to a monument or thing, includes the setting of the monument or thing, and "amenity value" shall be construed accordingly;

"Ancient Monuments Protection Acts" means the Act of 1882, the Act of 1892 and the Act of 1910;

"appropriate assessment" has the meaning assigned to it by Regulation 2 of the Habitats Regulations;

"archaeological excavation" means digging or excavating in or under any land (whether with or without removing the surface of the land) for the purpose of searching for, identifying, locating or exposing archaeological heritage, whether or not such heritage is known to be on, in or under that land;

"archaeological heritage" means relevant things of archaeological interest and archaeological objects;

"archaeological monitoring" means the monitoring, overseeing or supervising of any digging or excavating on, in or under any land (whether with or without removing the surface of the land) where—

(a) the digging or excavating is not in connection with archaeological excavation or any other archaeological purpose, and

(b) the monitoring, overseeing or supervising is for the purpose of identifying archaeological heritage which may be found or uncovered in the course of or as a result of such digging or excavating, whether or not such heritage is known to be on, in or under that land;

"archaeological object" means—

(a) either—

(i) a chattel, or

(ii) a chattel situated at or removed from a relevant thing of a relevant interest or a monument,

that, by reason of the archaeological interest attaching to it or of its association with any historic event, period, subject or person, has a cultural, monetary or scientific value greater than its intrinsic value,

(b) a chattel collected in the course of the carrying out or undertaking of archaeological excavation, archaeological monitoring or the searching for archaeological objects lying exposed on the surface of land, or

(c) an historic object having no known owner;

"archaeology" means the study of past human societies of all periods, either as a whole or of various aspects of them, through the material remains of all forms, moveable and immoveable, left by those societies and the evidence of their environment, and includes the study of climatological, ecological, geological, geomorphological or pedological factors relevant to understanding the nature or context of those societies or the distribution or nature of their material remains, and "archaeological interest" shall be construed accordingly;

"architectural heritage" means—

(a) structures and buildings together with their settings and attendant grounds, fixtures and fittings,

(b) groups of structures and buildings referred to in *paragraph (a)*, and

(c) sites,

that are of archaeological, architectural, cultural, historic, scientific, social or technical interest;

"architectural history" means the history of architecture, including its cultural, economic and social context;

"art history" means the history of art, including its cultural, economic and social context;

"battlefield" includes—

(a) any area or areas (to the extent (if any) that it or they can be both identified and geographically defined) where the majority of the combat (including any significant military engagement) or related activities of a battle took place, and

(b) any sites or places directly associated with the conduct, command or direction of a battle (including any significant military engagement) or related activities of a battle, whether or not contiguous with or to an area or areas referred to in *paragraph (a)*;

"Board" means the Board of the National Museum of Ireland;

"building" includes—

(a) the trade fixtures, domestic fixtures and ornamental fixtures of the building,

(b) the machinery and equipment fixed or attached to the building, and

(c) any other fixtures of the building;

“chattel” means a chattel of artificial or natural origin (including animal, human or plant remains) and whether or not it has been artificially altered;

“Church Temporalities Commission” means the Commissioners of Church Temporalities in Ireland;

“class” includes a subclass;

“code of practice” has the meaning assigned to it by *section 213* ;

“Commissioners” means the Commissioners of Public Works in Ireland;

“company” means—

(a) a company formed and registered under the Act of 2014, or

(b) an existing company;

“consent” means prior consent in writing;

“contiguous zone” shall be construed in accordance with section 12 of the Act of 2021 and, for the purposes of this Act, includes the land underlying such zone;

“copy” means a copy in any form (including electronic form);

“Council” means the body established by section 5 of the Act of 1995 and known as The Heritage Council;

“cultural interest” includes artistic, literary, linguistic or traditional interest;

“Department” means the Department of Housing, Local Government and Heritage;

“deposit” includes a group, cluster or spread of archaeological objects on, in or under land;

“detection device”—

(a) subject to *paragraph (b)*, means a device designed or adapted for, or capable of being used for, detecting or locating a deposit, feature, metal or mineral underneath the surface of land, and

(b) does not include—

(i) a camera operating in visible wavelengths, or

(ii) equipment the sole function of which is the preparation or compilation of topographical surveys of the surface of land;

"dig" or "excavate" includes augur, bore, core, drill, dredge or tunnel;

"Director" means the Director of the National Museum of Ireland;

"EIA" means environmental impact assessment within the meaning of the EIA Directive;

"EIA Directive" means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 [1] on the assessment of the effects of certain public and private projects on the environment as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014[2] ;

"enactment" means—

(a) an Act of the Oireachtas,

(b) a statute that was in force in Saorstát Éireann immediately before the date of coming into operation of the Constitution and that continued in force by virtue of Article 50 of the Constitution, or

(c) an instrument made under an Act of the Oireachtas or a statute referred to in *paragraph (b)*;

"enforcement notice" has the meaning assigned to it by *section 193* ;

"environment" includes climate, landscape, flora and fauna life;

"existing company" has the meaning assigned to it by section 2 of the Act of 2014;

"export" means the export or removal from the State of any goods (being things of any kind, whether animate or inanimate) to a place outside the State;

"extent of the territorial application of this Act" shall be construed in accordance with *section 4* ;

"find", in relation to the finding of a relevant thing of a relevant interest or an archaeological object on, in or under land, or floating on or under any waters, means find within the extent of the territorial application of this Act, and includes—

(a) to expose, uncover or in any way come upon, locate, identify or encounter a relevant thing of a relevant interest or an archaeological object, whether or not during the course of carrying out any works or searching or other activity and whether or not the works, searching or other activity were or was for the purpose of finding relevant things of a relevant interest or archaeological objects, and

(b) to find with or by the use of a camera, detection device or other form of survey or other equipment;

"functional area", in relation to a local authority, means the functional area, within the meaning of section 198 of the Act of 2001, of the local authority;

"general protection", in relation to a thing (howsoever described in this Act), means that *section 27* applies to the thing pursuant to—

(a) *section 21* , or

(b) *section 23 (3)*;

"geographical area" means any geographical area to which this Act applies by virtue of *section 4* ;

"give", in relation to a notice or other document that is required to be given to a person under this Act, shall be construed in accordance with *section 221* ;

"Habitats Directive" means Council Directive 92/43/EC of 21 May 1992[3] on the conservation of natural habitats and of wild fauna and flora as amended by Council Directive 97/62/EC of 27 October 1997[4] , Regulation (EC) No. 1882/2003 of the European Parliament and of the Council of 29 September 2003[5] , Council Directive 2006/105/EC of 20 November 2006[6] and Council Directive 2013/17/EU of 13 May 2013[7] ;

"Habitats Regulations" means the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011);

"historic" includes historical;

"historic heritage" includes—

(a) archaeological heritage, architectural heritage, landscapes, wrecks one hundred or more years old or otherwise of historic interest and historic objects, and

(b) relevant things of a relevant interest that do not already fall within *paragraph (a)*;

"historic interest" includes association with, or being representative of, historic events, periods, persons, subjects or themes;

"historic object" means a chattel which is of archaeological, architectural, historic or other cultural or scientific interest, and includes—

(a) moveable mechanisms of transport of such interest, and

(b) moveable objects within or associated with relevant things of a relevant interest;

"history" includes architectural, art, economic, military, political, religious, scientific, social or technical history;

"immediate surroundings", in relation to a monument, means such areas immediately surrounding the monument, in addition to the surrounding area (if any) of the monument, where works, if carried out therein, could adversely affect—

(a) the monument, or

(b) any relevant thing of a relevant interest which, taking into account the type of monument which the monument is, it would be reasonable to consider might be in the vicinity of the monument;

"import" means the import or bringing into the State of goods (being things of any kind, whether animate or inanimate) from a place outside the State;

"internal waters" shall be construed in accordance with section 8 of the Act of 2021;

"Irish vessel" means—

(a) a ship which is an Irish ship within the meaning of—

(i) subject to *subparagraph (ii)*, section 9 of the Mercantile Marine Act 1955 , or

(ii) on and from the commencement of section 7 of the Merchant Shipping (Registration of Ships) Act 2014 , section 33 of that Act,

or

(b) a vessel which is—

(i) not registered under the law of another country, and

(ii) owned by, or leased or chartered to—

(I) an individual resident in the State, or

(II) a company;

"land" includes—

(a) tenements, hereditaments, houses and buildings, land covered by water and any estate, right, title or interest in or over land,

(b) the substratum of land,

(c) the sea bed, and

(d) the substratum of the sea bed;

"land covered by water" includes land normally covered by water and the foreshore within the meaning of section 1 of the Foreshore Act 1933 ;

"landscape" has the same meaning as it has in Article 1 of the European Landscape Convention done at Florence on 20 October 2000;

"licence" means a licence granted under *section 151* ;

"licensable activity" means an activity or other thing referred to in this Act the doing of which requires, as specified in this Act, a licence;

"local authority" has the meaning assigned to it by the Act of 2001;

"member of the naval service" means a member of the Naval Service of the Defence Forces;

"Minister" means, subject to *subsection (7)*, the Minister for Housing, Local Government and Heritage;

"monument" means—

(a) a registered monument, or

(b) a prescribed monument which is not a registered monument;

"monument to which general protection applies" means—

(a) a registered monument other than a registered monument to which special protection applies pursuant to *section 20 (1)* or *24 (1)*,

(b) a potential Register action monument (*section 23*) to which general protection applies pursuant to *section 23 (3)*, or

(c) a prescribed monument (not being a registered monument);

"monument to which special protection applies" means—

(a) a registered monument to which special protection applies pursuant to *section 20 (1)* or *24 (1)*, or

(b) a potential Register action monument (*section 22*) to which special protection applies pursuant to *section 22 (3)*;

"national monument" has the meaning assigned to it by *section 74* ;

"national monument (LA)" has the meaning assigned to it by *section 74* ;

"national monument (M)" has the meaning assigned to it by *section 74* ;

"National Monuments Acts" means the National Monuments Acts 1930 to 2014;

"national newspaper" means a newspaper published and circulating generally in the State, whether in hard copy or electronic form, or both;

"new authorisation" means a licence, consent, approval, permission or direction granted, issued or given under this Act;

"officer of the Commissioners" includes—

(a) a civil servant (within the meaning of the Act of 1956), whether established or unestablished, who is assigned to perform duties in the Office of Public Works, and

(b) any person employed by the Commissioners whether on a contract of service or for service;

"officer of the Minister" includes—

(a) a civil servant (within the meaning of the Act of 1956), whether established or unestablished, who is assigned to perform duties in the Department of State of which the Minister has charge, and

(b) any person employed by the Minister whether on a contract of service or for service;

"old authorisation" means a licence, consent, approval, permission or direction granted, issued or given under an enactment repealed by *section 7* ;

"owner"—

(a) in relation to land, means a person (other than an owner exception or a mortgagee not in possession) who, whether in his or her own right or as trustee or agent of any other person—

(i) is entitled to receive the rack rent of the land, or

(ii) if the land is not let at rack rent, would be entitled to receive the rack rent of the land if it were so let,

(b) in relation to a chattel, means any one or more of the following:

(i) a person for the time being having such estate or interest in the chattel as to entitle him or her to the actual possession of it;

(ii) a bailor of the chattel;

(iii) the donor of the chattel as a conditional gift,

(c) in relation to a requirement under this Act to give notice to an owner of land, shall be construed in accordance with *paragraph (a)*, and

(d) in relation to a requirement under this Act to give notice to the owner of a chattel (including a wreck), shall be construed in accordance with *paragraph (b)*;

"owner exception", in relation to land, means—

(a) a tenant of the land whose tenancy is for a period of not more than one year,

(b) a tenant at will of the land,

(c) a tenant at sufferance of the land,

(d) a person entitled to occupancy of the land by or under a licence (whether granted under this Act or another enactment), or

(e) a person whose occupancy of the land is adverse to the rights of another person not barred from an action for recovery of the land;

"possession", in relation to any thing (other than land), includes to control the thing;

"potential Register action (*section 22*)" shall be construed in accordance with *section 22 (1)*;

"potential Register action (*section 23*)", shall be construed in accordance with *section 23 (1)*;

"potential Register action monument (*section 22*)", in relation to a potential Register action (*section 22*), means—

(a) the prescribed monument,

(b) the relevant thing of a relevant interest, or

(c) the registered monument,

as the case may be, that is the subject of that potential Register action (*section 22*);

"potential Register action monument (*section 23*)", in relation to a potential Register action (*section 23*), means—

(a) the prescribed monument,

(b) the relevant thing of a relevant interest, or

(c) the registered monument,

as the case may be, that is the subject of that potential Register action (*section 23*);

"prescribed" means prescribed by regulations made by the Minister under this Act;

"prescribed monument" shall be construed in accordance with *section 12 (1)(d)*;

"protect" includes preserve, conserve and maintain;

"public authority" means—

(a) a Minister of the Government (or a Minister of State),

(b) the Commissioners,

(c) a body (not being a local authority) established by or under an enactment (other than the Act of 2014)—

(i) which is not an existing company, and

(ii) the principal function of which is not the provision of financial services to the public,

or

(d) a company (not being a company the principal function of which is the provision of financial services to the public) all of the shares in which are held by or on behalf of a Minister of the Government (or a Minister of State);

"publish" includes cause to publish and make available to the public in an electronic or other non-legible form (whether on the internet or otherwise) which is capable of being converted into a permanent legible form;

"Register" means the Register of Monuments established under *section 14 (1)*;

"registered monument" means—

(a) a relevant thing of a relevant interest the particulars of which are entered in the Register pursuant to *section 14 (3)(a)*,

(b) a prescribed monument the particulars of which are entered in the Register pursuant to *section 14 (3)(b)*;

"relevant date" shall be construed in accordance with *section 48 (3)*;

"relevant interest", in relation to a relevant thing, means that the thing is of known or potential archaeological, architectural, historic or cultural interest (or any combination thereof);

"relevant thing" means any of the following things, whether situated on, in or under land and whether or not attached to the surface of the land or forming part of land and whether or not intentionally or originally in the sites where they respectively are:

(a) any artificial structure, construction, deposit, feature or layer (including any building and any burial or interment);

(b) any artificially altered structure, construction, deposit, feature or layer, whether or not natural in origin;

(c) any wreck;

(d) any ritual or ceremonial site;

(e) any site where an historic event took place, including any other site directly associated with that event;

(f) any battlefield;

(g) any site with legendary or mythological associations;

(h) any feature, deposit or layer, whether or not natural in origin and whether or not artificially altered, containing or providing information or evidence relating to the past environment;

"relevant works" has the meaning assigned to it by *section 25* ;

"sea" includes—

(a) an area which is submerged at high water of ordinary spring tides,

(b) an estuary or arm of the sea, and

(c) the tidal waters of a channel, creek, bay, river, canal, waterway or other watercourse;

"sea bed" means land under sea, and includes silts or other deposits lying on the land or on or within a wreck;

"site" includes location and place;

"special protection", in relation to a thing (howsoever described in this Act), means that *section 30* applies to the thing pursuant to—

(a) *section 20 (1)*,

(b) *section 22 (3)*,

(c) *section 24 (1)*, or

(d) *section 135* ;

“specified”, in relation to a form, means specified under *section 223* ;

“surrounding area”, in relation to a registered monument, shall be construed in accordance with *section 14 (4)*;

“territorial seas” shall be construed in accordance with section 7 of the Act of 2021;

“this Act” includes a statutory instrument made under this Act;

“traditional interest” includes of interest by virtue of folklore, folklife, myth or legend;

“Valletta Convention” means the European Convention on the Protection of the Archaeological Heritage (Revised) done at Valletta on 16 January 1992;

“water” includes the water of rivers, streams, canals, waterways, ponds, lakes or any other form of watercourse or body of water or sea;

“works” means any act (whether new or habitual and including an act relating to archaeological excavation) of ground disturbance (including digging, ploughing or excavation), dumping (including dumping at sea or on, in or over land covered by water), planting, cutting (including cutting of vegetation), construction, demolition, deposition, burning (including burning of vegetation), extension, alteration (including any alteration which causes damage or defacement), repair, removal, renovation, refurbishment, renewal, or salvage (including marine or maritime salvage);

“World Heritage Property” shall be construed in accordance with *section 91* ;

“wreck” means any form of watercraft or vessel (whether intended for use above or below the surface of the water) or aircraft or any part or element thereof, lying on, in or under the sea bed or land covered by water, and any things contained in or on such watercraft, vessel or aircraft, or any objects which were formerly so contained and are lying on, in or under the sea bed or on or in land covered by water;

“wreck 100 or more years old” means a wreck which has been lying, as referred to in the definition of “wreck”, for a period of 100 or more years and regardless of whether the wreck is exposed or has been exposed at any time.

(2) For the purposes of the definitions of "archaeological object" and "historic object", a chattel embedded, in whole or in part, in land which, if it were not so embedded, would in the normal course be moveable (including any moveable tool, implement, utensil, ornament or any other similar or like moveable thing or any vehicle, watercraft, vessel or aircraft or any moveable mechanism of transport) shall not be considered to have become annexed to the land.

(3) A reference in this Act to a thing (howsoever described) being done under and in accordance with a licence includes a reference to—

(a) such thing being done in accordance with all the conditions (if any) of the licence, and

(b) the fulfilment or compliance with all the conditions (if any) of such licence before, during or after the doing of such thing.

(4) The functions vested in the Commissioners under this Act may be vested in the Minister pursuant to an order under section 9 (1) or (2) of the Ministers and Secretaries Act 1924 .

(5) A reference in this Act to any of the following things includes a reference to a part of the thing concerned:

(a) aircraft;

(b) archaeological object;

(c) architectural heritage;

(d) building;

(e) chattel;

(f) deposit;

(g) historic object;

(h) monument;

(i) relevant thing;

(j) wreck.

(6) A reference in this Act to a member of the naval service is a reference to such member acting at the request made, whether specifically or generally, by a member of An Garda Síochána not below the rank of inspector.

(7) (a) A reference to the Minister in the definition of "officer of the Minister" in *subsection (1)* or in *section 3 (2)*, *6* , *156* or *222* includes a reference to the Minister for Tourism, Culture, Arts, Sport, Gaeltacht and Media.

(b) A reference to the Minister in the definition of "prescribed" in *subsection (1)* or in *section 5* means, in the case of regulations made or to be made under *Part 4* , a reference to the Minister for Tourism, Culture, Arts, Sport, Gaeltacht and Media.

(c) A reference to the Minister in the definition of "prescribed" in *subsection (1)* or in *section 5* includes, in the case of regulations made or to be made under *section 152* , a reference to the Minister for Tourism, Culture, Arts, Sport, Gaeltacht and Media.

(d) A reference to the Minister in *Part 4* (except in *paragraph (a)* of the definition of "relevant person" in *section 95*), *section 133* , *subsection (1)* of *section 158* (in so far as that subsection relates to inventories of, or in relation to, historic objects) or *Schedule 4* means the Minister for Tourism, Culture, Arts, Sport, Gaeltacht and Media.

Performance of functions

3. (1) A person performing a function under this Act shall recognise and take due account of the following principles in performing that function:

(a) that historic heritage is a non-renewable resource of great cultural and scientific importance which, in addition to its intrinsic value, provides evidence for the development of society and promotes public understanding and appreciation of all periods of the past;

(b) that the first option to be considered should be the protection *in situ* of historic heritage and that there ought to be a presumption in favour of this option;

(c) that any removal or alteration of historic heritage should be accompanied by all necessary and appropriate recording of such heritage;

(d) that (in particular, as regards the general function referred to in *section 168*) the Valletta Convention should be adhered to as well as any other international treaty, to which the State is a party, the provisions of which are aimed at promoting or securing the protection of the archaeological, architectural or other historic heritage;

(e) that responsibility for the protection of historic heritage is, as a resource of benefit to all, shared by all and, accordingly, that those permitted to remove or interfere with such heritage should, in the normal course, bear the costs of any recording or protective work necessitated by, or associated with, such removal or interference.

(2) The Minister, the Commissioners, the Board, the Council and each local authority, as relevant, and their officers, servants and agents, shall co-operate in the implementation of this Act.

Application

4. (1) Subject to *subsections (2)* and *(4)*, the extent of the territorial application of this Act is that this Act applies—

(a) within the State (including its internal waters and territorial seas) and the contiguous zone, and

(b) in so far as provided for in *Chapter 2* of *Part 5* , to any other area of sea.

(2) *Subsection (1)* shall not restrict the application of any law of the State to any area by virtue of section 19 of the Act of 2021.

(3) Nothing in the State Property Act 1954 shall operate to prejudice the performance by the Minister, the Commissioners or a local authority of their respective functions under this Act.

(4) (a) The vesting effected by *section 96 (1)* shall not apply to an archaeological object found within the contiguous zone.

(b) The vesting of a relevant wreck (within the meaning of *section 132*) effected by *section 133 (1)* shall not apply to such a wreck found within the contiguous zone.

Regulations, etc.

5. (1) The Minister may by regulations 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 order under *section 40 (6)* or *219 (1)* or *(3)* or 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 order or regulation is passed by either such House within the next 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Expenses and other financial matters

6. (1) Any expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of moneys provided by the Oireachtas.

(2) Any expenses incurred by the Commissioners in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of moneys provided by the Oireachtas.

(3) Notwithstanding *subsections (1)* and *(2)*, the Minister may, in each financial year, after consultation with the Commissioners in relation to their proposed work programme and expenditure for that year in the carrying out of functions under this Act, make grants of such amount as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, and in accordance with such conditions as the Minister may specify, out of moneys provided by the Oireachtas towards the expenditure incurred by the Commissioners in the performance of such functions.

(4) Section 27 of the Act of 1997 shall apply to the functions of the Board under this Act.

(5) The expenses incurred by the Minister and the Commissioners in the administration and implementation of this Act may also be paid out of moneys received by him or her or them by way of fees charged under or pursuant to this Act.

(6) The Minister may accept gifts, donations or bequests, whether monetary or otherwise, from a person for the purpose of applying them in the administration and implementation of this Act or otherwise in the protection of historic heritage or promotion of knowledge and awareness of such heritage.

(7) The reference to functions in section 13 of the Act of 1995 includes the Council's functions under this Act.

Repeals

7. Subject to the operation of the provisions of *Chapter 9* of *Part 2* and of *sections 53* to *60* , *71* , *72* and *113* , the enactments specified in *column (3)* of *Schedule 1* are repealed to the extent specified in *column (4)* of that Schedule.

PART 2

Monuments

Chapter 1

Interpretation and identity and whereabouts of owner of land, etc.

Interpretation - *Part 2* and *Schedule 2*

8. (1) In this Part and *Schedule 2* —

"authorised officer" means an officer appointed under *section 87 (1)* or *(3)* to be an authorised officer for the purposes referred to in *section 87 (1)* or *(3)*, as the case may be;

"*Chapter 8* monument" means—

(a) a monument to which general protection applies, or

(b) a monument to which special protection applies;

"draft general notice" means—

(a) a draft, referred to in *section 23 (1)(a)(ii)*, of a general list notice, or

(b) a draft, referred to in *section 23 (1)(a)(iii)*, of a revised general list notice;

"general list notice" shall be construed in accordance with *section 19 (1)(b)*;

"general notice" means—

(a) a general list notice, or

(b) a revised general list notice;

"guardianship monument" has the meaning assigned to it by *section 68* ;

"monument guardianship order" means an order under *section 67 (1)*;

"proceedings" means any civil or criminal proceedings, whether or not under this Act;

"Register action"—

(a) in relation to a relevant thing of a relevant interest, means the entry of particulars of the thing in the Register pursuant to *section 14 (3)(a)*,

(b) in relation to a prescribed monument (not being a registered monument), means the entry of particulars of the monument in the Register pursuant to *section 14 (3)(b)*,and

(c) in relation to a registered monument, means an amendment to, or a deletion from, pursuant to *section 17* , the particulars entered in the Register in respect of the monument, and includes the entry of any particulars in the Register, pursuant to *section 14 (4)*, in respect of the monument (whether at the same time as, or subsequently to, the entry in the Register of the particulars concerned referred to in *paragraph (a)* or *(b)*) and the entry in the Register of a statement referred to in *section 15(2)*;

"Register action monument", in relation to a Register action, means—

(a) the prescribed monument (not being a registered monument),

(b) the relevant thing of a relevant interest, or

(c) the registered monument,

as the case may be, that is the subject of that Register action;

"registration number"—

(a) in relation to a registered monument, means the unique registration number assigned to the monument pursuant to *section 15 (4)*, and

(b) in relation to a group of 2 or more registered monuments, means the unique group registration number assigned to the group pursuant to *section 15 (5)*;

"relevant authority" has (other than in *Chapter 18*) the meaning assigned to it by *section 74* ;

"relevant enactments" means—

(a) the enactments repealed by *section 7* as those enactments were in force immediately before being so repealed, and

(b) the Act of 1869 as in force immediately before being amended by *section 226* ;

"relevant map" means a map contained in or accompanying a specific notice or general notice;

"relevant site", in relation to a geographical area the subject of a general notice or draft general notice, means—

(a) any library, situated in that geographical area, to which members of the public have access and that is operated by or under the direction of a library authority within the meaning of section 77 of the Act of 2001,

(b) any office of a local authority whose functional area is situated, in whole or in part, in that geographical area,

(c) any post office situated in that geographical area,

(d) any Garda Síochána station situated in that geographical area,

(e) any office, situated in that geographical area, of a public authority where that office provides services to owners of land including farmers, or

(f) any office to which members of the public have access, situated in that geographical area, of a public authority (or of a service or agency operating under the control of, or on behalf of, a public authority);

"revised general list notice" shall be construed in accordance with *section 19 (1)(c)*;

"*section 22* consultation notice" shall be construed in accordance with *section 22 (1)*;

"*section 23* consultation notice" shall be construed in accordance with *section 23 (1)(a)(i)*;

"*section 23* general list consultation notice" shall be construed in accordance with *section 23 (1)(a)(ii)*;

"*section 23* revised general list consultation notice" shall be construed in accordance with *section 23 (1)(a)(iii)*;

"shown" means shown in any manner or way;

"specific notice" means the notice of a Register action given to the owner of the land concerned by the Minister pursuant to *section 19 (1)(a)*;

"unknown", in relation to the identity and whereabouts of a person, shall be construed in accordance with *section 10* .

(2) A reference in this Part to a relevant thing of a relevant interest includes a reference to a site where the Minister reasonably believes that there may be a relevant thing of a relevant interest.

(3) For the avoidance of doubt, it is hereby declared that the destruction, whether in whole or in part and by whatever means, of a monument to which general protection or special protection applies shall not prejudice the continuation of such protection to the remainder (if any) of the monument, including the site, surrounding area and immediate surroundings of the monument.

Circumstances in which owner of land is given notice by publication of notice in national newspaper

9. (1) A reference in this Partto the giving of a specific notice includes a reference to, if *section 19 (2)* is applicable, the publication of that notice in a national newspaper.

(2) A reference in this Part to the giving of a *section 22* consultation notice or *section 23* consultation notice includes a reference to, if *section 22 (2)* or *23 (2)*, as the case may be, is applicable, the publication of that notice in a national newspaper.

(3) A reference in this Part to the giving of a notice under *section 22 (1)(c)* or *23 (1)(c)* includes a reference to, if *section 22 (2)* or *23 (2)*, as the case may be, is applicable, the publication of that notice in a national newspaper.

(4) Where *subsection (1)*, *(2)* or *(3)* applies, the owner of the land concerned shall be deemed to have been given the notice concerned referred to in that subsection upon the publication of that notice in a national newspaper.

Identity and whereabouts of owner of land

10. For the purposes of this Part and *Schedule 2* —

(a) the identity and whereabouts of a person shall be treated as unknown only after reasonable efforts to ascertain his or her identity and whereabouts have been unsuccessful, and

(b) without prejudice to the generality of *paragraph (a)*, the identity and whereabouts of a person shall be treated as unknown if—

(i) his or her identity is known but his or her whereabouts are unknown, or

(ii) his or her whereabouts are known but his or her identity is unknown.

Provisions supplementary to *section 10*

11. The fact that the identity and whereabouts of a person are unknown shall not of itself prejudice the operation of any provision of this Part or of *Schedule 2* and, accordingly, any such provision which refers to a person who is unknown shall be read with all necessary modifications to enable the provision not to be so prejudiced.

Chapter 2

Prescribed monuments

Prescribed monuments

12. (1) (a) Subject to *paragraphs (b)* and *(c)*, there may be prescribed, for the purposes of this Act, a class of relevant things which falls within any of *paragraphs (a)* to *(h)* of the definition of "relevant thing" in *section 2* .

(b) The Minister shall not exercise his or her power under *paragraph (a)* unless he or she is of the opinion that the relevant things which fall within the class of relevant things concerned —

(i) are of archaeological interest or of other relevant interest, and

(ii) ought, by reason of their nature or where they are situated, to be subject to the provisions of this Act that apply in relation to prescribed monuments.

(c) The class of relevant things which is wrecks one hundred or more years old shall be deemed to be a class of relevant things prescribed under *paragraph (a)*.

(d) A thing which falls within a class of relevant things—

(i) prescribed under *paragraph (a)*, or

(ii) deemed under *paragraph (c)* to be a class of relevant things prescribed under *paragraph (a)*,

shall in this Act be referred to as a "prescribed monument".

(2) Without prejudice to the generality of *subsection (1)*, the Minister may under that subsection prescribe a class of relevant things by reference to any one or more than one of the following criteria:

(a) age, date or period (including by reference to any terminology relating to periods) that, in the opinion of the Minister, is or has been in use in archaeology or other relevant disciplines;

(b) morphology;

(c) condition;

(d) typology (including by reference to typologies which, in the opinion of the Minister, are or have been in use in archaeology or other relevant disciplines);

(e) the environment in which the relevant thing is situated (including whether or not the relevant thing is situated under water);

(f) the circumstances in which the relevant thing is found (including the manner of finding);

(g) whether the relevant thing is or is not marked or shown on any—

(i) edition of any ordnance map, or

(ii) map prescribed for the purposes of this paragraph.

Requirement to report finding of prescribed monument

13. (1) This section applies to a prescribed monument other than a prescribed monument which —

(a) is a registered monument, or

(b) has been the subject of a preliminary report under *subsection (2)(b)* given to the Minister or a member of An Garda Síochána.

(2) (a) *Paragraph (b)* applies where a person finds, or believes that he or she has found, a thing to which this section applies.

(b) Subject to *subsections (3)* and *(7)*, the person shall, before the expiration of the prescribed period for reporting the thing under this section (or, if such period is not prescribed, before the expiration of 72 hours after finding the thing) make a preliminary report of the finding of the thing to the Minister or a member of An Garda Síochána.

(c) Different periods may be prescribed for making a preliminary report of the finding of a thing under this section by reference to—

(i) specified classes of persons, or

(ii) the means (including surveys, howsoever conducted) by which the thing was found,

or any combination thereof.

(3) (a) A person making a preliminary report under *subsection (2)(b)* shall, in the report—

(i) state his or her name and address,

(ii) describe the thing found (which may include a photograph or other image of the thing), and

(iii) describe the site of the thing (which may include a photograph or other image of the site).

(b) A member of An Garda Síochána to whom a preliminary report under *subsection (2)(b)* is made shall cause the report, or a copy of the report, to be given to the Minister as soon as is practicable after the member receives the report.

(4) (a) Subject to *subsection (7)*, where a person makes a preliminary report under *subsection (2)(b)* to the Minister or a member of An Garda Síochána, the Minister shall cause the person to be given, subject to *subsections (5)* and *(9)*, a return in the specified form.

(b) A person who is given a return referred to in *paragraph (a)* shall complete it and return it, to the person specified in the return for the purpose, before the expiration of 7 days from the day on which he or she was given the return.

(5) Without prejudice to the generality of *section 223* , a return referred to in *subsection (4)(a)* required to be completed by a person shall require the person to specify the following in the return:

(a) his or her name and address;

(b) the date and time when he or she found the thing concerned;

(c) a description of the thing (which may include a photograph or other image of the thing);

(d) the circumstances in which he or she found the thing;

(e) the site of the thing (which may include a photograph or other image of the site);

(f) if known to the person, the name of the owner or occupier of the land on which the thing is or was situated.

(6) Subject to *subsection (10)*, where the Minister receives a return referred to in *subsection (4)(a)*, he or she shall cause the thing the subject of the return, or the site of the thing, or both, to be inspected by a person on behalf of the Minister.

(7) Subject to *subsection (8)*, this section shall not apply to the finding of a thing in the course of any licensable activity if—

(a) the activity is carried out under and in accordance with a licence, and

(b) the licence is subject to a condition requiring any finding of a thing to which this section would apply but for this subsection to be reported to the Minister in such manner as is specified in the licence, whether individually or with other findings of such things made in the course of the activity.

(8) It may be specified as a condition of a licence that this section shall apply to the finding of a thing occurring in the course of the activities authorised under the licence, whether generally or in such cases or circumstances as may be specified in the licence.

(9) *Subsection (4)(a)* shall not place the Minister under any obligation to cause a return referred to in that subsection to be given to a person where the Minister is of the opinion that—

(a) a preliminary report under *subsection (2)(b)* made by the person—

(i) does not relate to a thing to which this section applies,

(ii) does not merit the completion of such return, or

(iii) is trivial or vexatious,

or

(b) it is otherwise unnecessary that such return be completed in respect of that report.

(10) *Subsection (6)* shall not place the Minister under any obligation to cause a thing the subject of a return referred to in *subsection (4)(a)*, or the site of the thing, to be inspected if the Minister is of the opinion that—

(a) the thing is not a thing to which this section applies,

(b) the site does not contain a thing to which this section applies,

(c) the inspection would pose a risk to the health or safety of the person who would otherwise carry out the inspection on behalf of the Minister,

(d) the inspection is not merited or is otherwise unnecessary, or

(e) the return is trivial or vexatious.

(11) Nothing in this section shall be construed to prejudice the generality of *section 189* .

Chapter 3

Establishment of Register of Monuments and related provisions

Establishment of Register of Monuments

14. (1) The Minister shall, as soon as is practicable after the commencement of this section, establish and maintain a register to be known as the Register of Monuments.

(2) (a) Subject to *paragraph (b)*, the Register shall be in the form of an electronic database which is easily accessible to members of the public through public telecommunications networks.

(b) The Register may also be in such other form or forms (if any) as the Minister thinks appropriate.

(3) Subject to *subsections (7)* and *(10)*, the Minister shall enter in the Register particulars of—

(a) such relevant things of a relevant interest known to the Minister as he or she is of the opinion are appropriate to be entered in the Register, and

(b) such prescribed monuments known to the Minister as he or she is of the opinion are appropriate to be entered in the Register.

(4) (a) Where the Minister enters particulars of a prescribed monument or relevant thing of a relevant interest in the Register, he or she may, at the same time or subsequently, also enter with them particulars of such area surrounding such monument or thing (in this subsection referred to as the "surrounding area") as the Minister considers reasonably necessary to secure the protection of the monument or thing, including the protection of —

(i) the monument's or thing's amenities, and

(ii) any other prescribed monument or relevant thing of a relevant interest which, taking into account the type of monument or thing which the first-mentioned monument or thing, as the case may be, is, it would be reasonable to consider might be in the vicinity of the first-mentioned monument or thing.

(b) The surrounding area shall become part of the prescribed monument or relevant thing of a relevant interest which it surrounds immediately upon the entry in the Register, pursuant to *paragraph (a)*, of the particulars of the surrounding area.

(5) Without prejudice to the generality of *subsection (4)*, the Minister may, for the purposes of determining an area referred to in that subsection the particulars of which are to be entered in the Register together with particulars of a prescribed monument or relevant thing of a relevant interest, take into account—

(a) the topographical features (whether natural or otherwise) in the area in which the monument is situated, and

(b) boundaries (whether apparent on the ground or otherwise).

(6) (a) The Minister may make the same prescribed monument or relevant thing of a relevant interest the subject of 2 or more entries in the Register where—

(i) it is not clear that such monument or thing is one such monument or thing or 2 or more such monuments or things, or

(ii) to do so assists applying special protection to such monument or thing.

(b) The Minister may make 2 or more prescribed monuments or relevant things of a relevant interest the subject of one entry in the Register where—

(i) it is not clear that such monuments or things are 2 or more such monuments or things or a lesser number of such monuments or things, or

(ii) to do so assists applying special protection to such monuments or things.

(7) The Minister shall, in forming an opinion for the purposes of *subsection (3)* ABOUT A PRESCRIBED MONUMENT OR RELEVANT THING OF a RELEVANT INTEREST, have regard to the following matters in so far as they are relevant to such monument or thing:

(a) the level of archaeological, architectural, historic or cultural interest of the monument or thing;

(b) the physical integrity of the monument or thing;

(c) the level of community or amenity value of the monument or thing;

(d) the likelihood of the monument or thing, if it were to become a registered monument, being protected *in situ*;

(e) the extent to which the monument or thing is subject to protection under any other enactment.

(8) Nothing in *subsection (7)* shall of itself be construed as preventing the Minister from entering particulars of a prescribed monument or relevant thing of a relevant interest in the Register.

(9) Where the Minister proposes to enter particulars of a relevant thing of a relevant interest or prescribed monument in the Register and is of the opinion that the proposal may have significance to another state, he or she may, at his or her discretion, consult with an authority in that state, being an authority that has responsibilities as regards historic heritage in that state, in order to ascertain the authority's views (if any) on the proposal.

(10) The reference in *subsection (3)(b)* to "such prescribed monuments known to the Minister" shall be construed to include a reference to "such sites where the Minister reasonably believes that there are, or may be, prescribed monuments there", and the other provisions of this Act shall be construed accordingly.

Provisions supplementary to *section 14*

15. (1) The Minister shall, when entering particulars of a prescribed monument or relevant thing of a relevant interest in the Register, include in the Register—

(a) a statement—

(i) as to the type of monument or thing which the monument or thing is or may be, in so far as that is ascertainable at that time,

(ii) as to the site of the monument or thing,

(iii) if special protection is being applied to the monument or thing pursuant to *section 20 (1)*, that special protection is being applied to the monument or thing, and

(iv) if the Minister has actual knowledge that special protection is deemed to be applied to the monument or thing pursuant to *section 24(1)*, that special protection is deemed to be applied to the monument or thing,

and

(b) such cartographic information as the Minister considers appropriate to identify, or assist in identifying, the site of the monument or thing.

(2) The Minister may, in respect of a registered monument, include a statement in the Register that any structures, features or deposits on, under, above, within or adjacent to the monument, identified in such manner as the Minister considers appropriate in that statement —

(a) are the sole or exclusive extent of that monument, or

(b) are not part of that monument.

(3) In any proceedings relating to a registered monument in respect of which a statement referred to in *subsection (2)* has been made—

(a) if *paragraph (a)* of that subsection is applicable, any structures, features or deposits which are not referred to in that statement as being the sole or exclusive extent of the monument shall not be part of that monument for the purposes of those proceedings, and

(b) if *paragraph (b)* of that subsection is applicable, any structures, features or deposits which are referred to in that statement as not being part of the monument shall not be part of that monument for the purposes of those proceedings.

(4) The Minister shall, in the Register, assign a unique registration number to a registered monument.

(5) The Minister may, in the Register, assign a unique group registration number to a group of 2 or more registered monuments, in addition to the respective registration numbers of the monuments.

(6) In any proceedings relating to a registered monument or group of 2 or more registered monuments, any number assigned under this section to the monument or group of monuments, as the case may be, may be used to identify that monument or group of monuments for the purposes of the proceedings.

(7) Where the Minister has actual knowledge that special protection is deemed to be applied to a registered monument pursuant to *section 24 (1)*, the Minister shall, as soon as is practicable after attaining such knowledge, include in the Register a statement that special protection is deemed to be applied to the monument.

(8) *Sections 22* and *23* shall not apply to a Register action referred to in *subsection (7)*.

Matters to be taken into account by Minister in performing any function under *section 14* or *15*

16. The Minister shall, in performing his or her functions under *section 14* or *15* , take into account—

(a) the results of surveys, inventories and inspections that have been carried out under this Act, and

(b) any other information available to the Minister (including preliminary reports or returns under *section 13*) that he or she considers appropriate to have regard to for the purposes of performing such functions.

Minister may amend or delete particulars entered in Register, etc.

17. (1) Subject to *subsection (2)*, the Minister may amend or delete any particulars entered in the Register.

(2) *Sections 14* to *16* shall, with all necessary modifications, apply to an amendment or deletion of particulars entered in the Register that the Minister proposes to make or has made as those sections apply to particulars that the Minister proposes to enter or has entered in the Register.

(3) Any reference in this Act to the entering of particulars in the Register includes a reference to the amendment of particulars entered in the Register or the deletion of particulars entered in the Register, or both.

(4) Any reference in this Act to an amendment to, or a deletion from, the Register includes a reference to, respectively, an amendment to, or a deletion from, cartographic information associated with the Register pursuant to *section 15 (1)(b)*.

(5) Where the Minister is minded to take a Register action which, if taken, will cause a registered monument to cease to be a registered monument, he or she shall—

(a) consult with the Council to seek its views (if any) on the action,

(b) have regard to those views (if any) in deciding whether or not to take the action, and

(c) if the Minister takes that action (or another Register action in substitution therefor) contrary to those views (if any), publish, on the website of the Department, a reasoned response to those views.

(6) The Council may, for the purposes of forming any views referred to in *subsection (5)(a)*, consult with such public authorities or other persons as it thinks fit.

Promotion of public awareness of Register

18. (1) The Minister may promote public awareness of the Register in such manner as he or she considers appropriate.

(2) For the purposes of *subsection (1)*, the Minister may co-operate with, assist and encourage such persons as he or she considers appropriate to also be involved in promoting public awareness of the Register.

Chapter 4

Register actions and consultation on potential Register actions

Register actions

19. (1) Subject to *subsection (6)*, the Minister shall give notice of a Register action in one or more than one of the following ways as he or she considers appropriate:

(a) subject to *subsection (2)*, by giving a notice to the owner of the land on which the Register action monument is situated—

(i) containing or accompanied by a map which shows where the monument is situated,

(ii) specifying whether the monument is a monument to which general protection applies or a monument to which special protection applies or, in a case where all the particulars of the monument have been deleted from the Register, specifying that the monument has ceased to be a registered monument, and

(iii) containing such other information (if any) in respect of the Register action or the monument, or both, as the Minister considers appropriate;

(b) by publishing, in a national newspaper, a notice stating that a notice (in this Act referred to as a "general list notice"), complying with *subsection (8)* and relating to the geographical area to which the Register action relates, has been made available, by the Minister, for inspection by members of the public—

(i) on the website of the Department, and

(ii) at such relevant sites, in that geographical area, specified by the Minister in the national newspaper notice as the Minister considers appropriate;

(c) subject to *subsection (4)*, if the Register action monument is situated in a geographical area that is the subject of a general list notice, by publishing, in a national newspaper, a notice stating that a notice (in this Act referred to as a "revised general list notice") complying with *subsection (9)* and relating to that Register action and that geographical area, has been made available, by the Minister, for inspection by members of the public—

(i) on the website of the Department, and

(ii) at such relevant sites, in that geographical area, specified by the Minister in the national newspaper notice as the Minister considers appropriate.

(2) Where the Minister is unable to give a specific notice to the owner of land because the identity and whereabouts of the owner are unknown, the Minister shall, as soon as is practicable after deciding that he or she is so unable, publish the notice (including the relevant map if the map is not contained in the notice) in a national newspaper.

(3) The Minister may, as soon as is practicable after giving a specific notice to the owner of land, publish the notice (including the relevant map if the map is not contained in the notice) in *Iris Oifigiúil* but any information concerning the name, address, telephone number or place of employment of the owner shall be redacted from the notice.

(4) For the purposes of *paragraph (c)* of *subsection (1)*—

(a) a revision to a general list notice may be effected by means of a supplement to the notice, and

(b) the geographical area the subject of the revised general list notice may be a part only of the geographical area the subject of the general list notice provided that the Register action monument is situated in that part.

(5) None of the following shall prejudice the prior or future operation of a provision of this Act in respect of the Register action monument, be conclusive in respect of whether the monument is a monument to which general protection applies or a monument to which special protection applies, or be conclusive in respect of the extent of the monument, unless expressly provided to be so conclusive by another provision of this Act:

(a) the specific notice or general notice given in respect of the monument;

(b) a map contained in or accompanying the specific notice or general notice;

(c) information contained in the specific notice or general notice;

(d) information contained in a map contained in or accompanying the specific notice or general notice.

(6) Subject to *subsection (2)*, the Minister shall give notice of a Register action by means of a specific notice if the Register action monument is a registered monument to which special protection applies pursuant to *section 20 (1)*.

(7) Where—

(a) a Register action causes the Register action monument to cease to be a registered monument, and

(b) the Minister gives notice of the Register action by means of a general list notice or revised general list notice,

no future general list notice or revised general list notice (including any map contained in or accompanying any such notice) relating to the geographical area in which the monument is situated needs to refer to the monument, or show where it is situated, unless it again becomes a registered monument.

(8) A general list notice the subject of a notice published by the Minister pursuant to *subsection (1)(b)* shall, in relation to the Register action and the geographical area to which it relates—

(a) list the registered monuments (including the Register action monument even if it has ceased to be a registered monument) situated, in whole or in part, in that area,

(b) contain or be accompanied by a map which shows where each of those monuments is situated,

(c) specify whether the Register action monument is a monument to which general protection applies or a monument to which special protection applies or, in a case where all the particulars of the monument have been deleted from the Register, specify that the monument has ceased to be a registered monument,

(d) contain such other information (if any) in respect of the Register action or the Register action monument, or both, as the Minister considers appropriate, and

(e) which is made available for the inspection referred to in that subsection for not less than 90 days commencing on the date that the notice is published in a national newspaper as required by that subsection.

(9) A revised general list notice the subject of a notice published by the Minister pursuant to *subsection (1)(c)* shall, in relation to the Register action and geographical area to which it relates, be a general list notice—

(a) revised to include or exclude the Register action monument (including any case where that monument has ceased to be a registered monument) amongst the registered monuments situated, in whole or in part, in that area,

(b) containing or accompanied by a map which shows where each of those monuments is situated,

(c) specifying whether the Register action monument is a monument to which general protection applies or a monument to which special protection applies or, in a case where all the particulars of the monument have been deleted from the Register, specifying that the monument has ceased to be a registered monument,

(d) containing such other information (if any) in respect of the Register action or the Register action monument, or both, as the Minister considers appropriate, and

(e) which is made available for the inspection referred to in that subsection for not less than 90 days commencing on the date that the notice is published in a national newspaper as required by that subsection.

(10) The Minister may, at his or her discretion, in addition to publishing, in relation to a Register action, a notice in a national newspaper pursuant to *subsection (1)(b)* or *(c)*, also publish that notice in one or more than one newspaper (not being a national newspaper) circulating generally in the geographical area to which the Register action relates, whether in hard copy or electronic form, or both.

Minister's discretion to apply special protection to Register action monument

20. (1) Subject to *subsection (3)*, the Minister may, in a Register action, specify that *section 30* applies to the Register action monument, including any case where—

(a) the Register action falls, whether in whole or in part, within *paragraph (c)* of the definition, in *section 8* , of "Register action", or

(b) the Register action falls, in whole, within *paragraph (c)* of the definition, in *section 8* , of "Register action" and consists only of specifying that *section 30* applies to the Register action monument.

(2) Subject to *subsections (3)* and *(4)*, the Minister may, in a Register action, specify that *section 30* has ceased to apply to the Register action monument, including any case where—

(a) the Register action falls, whether in whole or in part, within *paragraph (c)* of the definition, in *section 8* , of "Register action", or

(b) the Register action falls, in whole, within *paragraph (c)* of the definition, in *section 8* , of "Register action" and consists only of specifying that *section 30* has ceased to apply to the Register action monument.

(3) The Minister, in deciding whether or not to apply or cease to apply, pursuant to *subsection (1)* or *(2)* as appropriate, special protection to the Register action monument shall consider the interest, character, integrity, community or amenity value of the monument in terms of its archaeological, architectural or other historic heritage, taking into account whether the monument is, in terms of such heritage, of special or particular interest, character, integrity, community or amenity value, whether at a local, regional, national or international level.

(4) A Register action shall not specify that *section 30* has ceased to apply to the Register action monument where the monument is—

(a) a national monument,

(b) a wreck referred to in *section 135* , or

(c) a guardianship monument.

General protection to be applied to all registered monuments, etc., to which special protection is not applied

21. *Section 27* applies to—

(a) a registered monument which is not a registered monument to which special protection applies pursuant to *section 20 (1)* or *24 (1)*, and

(b) a prescribed monument (not being a registered monument).

Requirements, etc., regarding consultation on special protection

22. (1) Subject to *section 15 (8)*, *Chapter 9* and *sections 53* to *60* , where the Minister proposes, by way of a Register action (in this Act referred to as a "potential Register action (*section 22*)", to apply, or remove the application of, special protection to the potential Register action monument (*section 22*), he or she shall—

(a) subject to *subsection (2)*, give notice of the potential Register action (*section 22*) (in this Act referred to as a "*section 22* consultation notice") to the owner of the land on which the monument is situated—

(i) containing or accompanied by a map which shows where the monument is situated,

(ii) specifying whether special protection is going to be applied to the monument or the special protection that applies to the monument is going to be removed (and, in the latter case, whether or not the potential Register action (*section 22*) would, if proceeded with, cause the monument to cease to be a registered monument by virtue of all the particulars of the monument being deleted from the Register), and

(iii) containing such other information (if any) in respect of the potential Register action (*section 22*) or the monument, or both, as the Minister considers appropriate,

(b) consider the representations in writing (if any) made to the Minister by the owner in respect of the potential Register action (*section 22)*—

(i) where such representations are so made before the expiration of the first 90 days of the 150 days referred to in *subsection (3)(a)*, and

(ii) to the extent that the representations are not inconsistent with *section 14 (3)* or *(7)* or *20* ,

and

(c) subject to *subsections (2)* and *(7)*, after so considering such representations (if any), proceed or decline to proceed with the potential Register action (*section 22*) and give the owner notice in writing of his or her decision and the reasons therefor.

(2) Where the Minister is unable to give the *section 22* consultation notice or a notice referred to in *subsection (1)(c)* to the owner of land because the identity and whereabouts of the owner are unknown, the Minister shall, as soon as is practicable after deciding that he or she is so unable, publish that notice (including, in the case of the *section 22* consultation notice, the relevant map if the map is not contained in the notice) in a national newspaper.

(3) Where the Minister proposes, by way of a potential Register action (*section 22*), to apply special protection to the potential Register action monument (*section 22*), *section 30* shall be deemed to apply to the monument from the date on which the Minister gives the *section 22* consultation notice in respect of the potential Register action (*section 22*) until—

(a) 150 days after the giving of the notice,

(b) the Minister proceeds with the potential Register action (*section 22*),

(c) the Minister gives a notice referred to in *subsection (1)(c)* stating that he or she has declined to proceed with the potential Register action (*section 22*), or

(d) the monument becomes a national monument,

whichever first occurs.

(4) The interim special protection applied to the potential Register action monument (*section 22*) shall apply in place of the general protection (if any) applied to the monument immediately before the interim special protection was applied to the monument.

(5) The interim special protection applied to the potential Register action monument (*section 22*) shall not prejudice the operation of any licence granted in respect of the monument before such protection applied to the monument.

(6) The giving by the Minister of a notice referred to in *subsection (1)(c)* stating that he or she has declined to proceed with the potential Register action (*section 22*) shall not operate to prevent the Minister from deciding to implement the potential Register action (*section 22*) at a later date provided that the provisions of this section have again been complied with in respect of the potential Register action (*section 22*).

(7) Where the Minister is minded to take a potential Register action which, if taken, will remove the application of special protection to the potential Register action monument, he or she shall—

(a) publish, on the website of the Department, particulars of the action,

(b) consult with the Council to seek its views (if any) on the action,

(c) have regard to those views (if any) in deciding whether or not to take the action, and

(d) if the Minister takes that action (or another Register action in substitution therefor) contrary to those views (if any), publish, on the website of the Department, a reasoned response to those views.

(8) The Council may, for the purposes of forming any views referred to in *subsection (7)(b)*, consult with such public authorities or other persons as it thinks fit.

(9) In this section, "interim special protection", in relation to the potential Register action monument (*section 22*), means the special protection deemed to be applied to the monument pursuant to *subsection (3)*.

Consultation on entering particulars of potential Register action monumentin Register where no special protection is intended to be applied to monument

23. (1) Subject to *section 15 (8)*, *Chapter 9* and *sections 53* to *60* , *71* and *72* , where the Minister proposes a Register action (in this Act referred to as a "potential Register action (*section 23*)"), he or she—

(a) shall give notice of the potential Register action (*section 23*) in one or more than one of the following ways as he or she considers appropriate:

(i) subject to *subsection (2)*, by giving a notice (in this Act referred to as a "*section 23* consultation notice") to the owner of the land on which the potential Register action monument (*section 23*) is situated—

(I) containing or accompanied by a map which shows where the monument is situated,

(II) if the monument is a registered monument to which general protection applies, specifying whether or not the potential Register action (*section 23*) would, if proceeded with, cause the monument to cease to be a registered monument by virtue of all the particulars of the monument being deleted from the Register, and

(III) containing such other information (if any) in respect of the potential Register action (*section 23*) or the monument, or both, as the Minister considers appropriate;

(ii) by publishing, in a national newspaper, a notice (in this Act referred to as a "*section 23* general list consultation notice") stating that a draft of the general list notice that would be the subject of a national newspaper notice under *paragraph (b)* of *section 19 (1)* if the Minister decided to proceed with the potential Register action (*section 23*) has been made available, by the Minister, for inspection by members of the public—

(I) on the website of the Department, and

(II) at such relevant sites, in the geographical area to which the potential Register action (*section 23*) relates, specified by the Minister in the *section 23* general list consultation notice as the Minister considers appropriate;

(iii) by publishing, in a national newspaper, a notice (in this Act referred to as a "*section 23* revised general list consultation notice") stating that a draft of the revised general list notice that would be the subject of a national newspaper notice under *paragraph (c)* of *section 19 (1)* if the Minister decided to proceed with the potential Register action (*section 23*) has been made available, by the Minister, for inspection by members of the public—

(I) on the website of the Department, and

(II) at such relevant sites, in the geographical area to which the potential Register action (*section 23*) relates, specified by the Minister in the *section 23* revised general list consultation notice as the Minister considers appropriate;

(b) shall consider the representations in writing (if any) made to the Minister by the owner in respect of the potential Register action (*section 23*)—

(i) where such representations are so made before the expiration of the first 90 days of the 150 days referred to in *subsection (3)(a)*, and

(ii) to the extent that the representations are not inconsistent with *section 14 (3)* or *(7)* or *20* ,

and

(c) subject to *subsections (2)* and *(6)*, shall, after so considering such representations (if any), proceed or decline to proceed with the potential Register action (*section 23*), or take such other action in respect of the potential Register action monument (*section 23*) (including action under *section 22*) as he or she thinks appropriate, and give the owner notice in writing of his or her decision and the reasons therefor.

(2) Where the Minister is unable to give the *section 23* consultation notice or a notice referred to in *subsection (1)(c)* to the owner of land because the identity and whereabouts of the owner are unknown, the Minister shall, as soon as is practicable after deciding that he or she is so unable, publish that notice (including, in the case of the *section 23* consultation notice, the relevant map if the map is not contained in the notice) in a national newspaper.

(3) Where general protection or special protection is not otherwise applied to the potential Register action monument (*section 23*), *section 27* shall be deemed to apply to the monument from the date on which the Minister gives the *section 23* consultation notice, or publishes the *section 23* general list consultation notice or *section 23* revised general list consultation notice, as the case may be, in a national newspaper in respect of the potential Register action (*section 23*) until—

(a) 150 days after the giving of the notice or such publication of the notice,

(b) the Minister proceeds with the potential Register action (*section 23*), or

(c) the Minister gives a notice referred to in *subsection (1)(c)* stating that he or she has declined to proceed with the potential Register action (*section 23*),

whichever first occurs.

(4) A potential Register action (*section 23*) relating to the deletion of all the particulars entered in the Register in respect of the potential Register action monument (*section 23*) shall not affect the general protection applied to the monument unless and until the Minister proceeds with the potential Register action (*section 23*).

(5) The interim general protection applied to the potential Register action monument (*section 23*) shall not prejudice the operation of any licence granted in respect of the monument before such protection applied to the monument.

(6) The giving by the Minister of a notice referred to in *subsection (1)(c)* stating that he or she has declined to proceed with the potential Register action (*section 23*) shall not operate to prevent the Minister from deciding to implement the potential Register action (*section 23*) at a later date provided that the provisions of this section have again been complied with in respect of the potential Register action (*section 23*).

(7) In this section, "interim general protection", in relation to the potential Register action monument (*section 23*), means the general protection deemed to be applied to the monument pursuant to *subsection (3)*.

Chapter 5

Special protection for certain registered monuments

Special protection applied to registered monuments in ownership or guardianship of Minister or local authority

24. (1) *Section 30* shall be deemed to apply to a registered monument in the ownership or guardianship of the Minister or a local authority where special protection does not otherwise apply to the monument.

(2) The Minister may, by notice published in *Iris Oifigiúil* or a national newspaper, give public notice of registered monuments to which *subsection (1)* applies where such monuments are in his or her ownership or guardianship.

(3) Where the Minister, in a notice referred to in *subsection (2)*, identifies a registered monument to which *subsection (1)* applies by the use of a map, the map shall not be definitive as to the extent of the monument unless the Minister expressly states in that notice that it is so definitive.

(4) A local authority may, by notice published in *Iris Oifigiúil* or a national newspaper, give public notice of registered monuments to which *subsection (1)* applies where such monuments are in its ownership or guardianship.

(5) Where a local authority, in a notice referred to in *subsection (4)*, identifies a registered monument to which *subsection (1)* applies by the use of a map, the map shall not be definitive as to the extent of the monument unless the local authority, with the consent of the Minister, expressly states in that notice that it is so definitive.

Chapter 6

Works at, etc., monuments

Interpretation - *Chapter 6*

25. (1) In this Chapter—

"Act of 2011" means the Environment (Miscellaneous Provisions) Act 2011 ;

"applicant", in relation to a relevant licence, means the person to whom the licence will relate if granted and notwithstanding that another person has made an application for the licence on behalf of the first-mentioned person;

"demolition", in relation to a relevant monument to which special protection applies, does not include, in so far as any requirement for an EIA is concerned—

(a) archaeological excavation,

(b) works (including dismantling) carried out to the monument for the purpose of repairing, restoring or protecting the monument, or

(c) the temporary or permanent removal of the monument for a purpose connected with—

(i) the repair of the monument,

(ii) the protection of the monument,

(iii) the preservation of the health or safety or welfare of members of the public, or

(iv) the provision of access, by members of the public, to the monument;

"EIA portal" means the website referred to in section 172A of the Act of 2000;

"EIAR" means environmental impact assessment report;

"European site" has the meaning assigned to it by Regulation 2 of the Habitats Regulations;

"proposed relevant works", in relation to a notice under *section 27 (2)(b)(i)*, relevant licence, EIA or EIAR, means the proposed relevant works to which the notice, licence, EIA or EIAR, as the case may be, relates;

"regional assembly" means a body established in accordance with section 43 of the Local Government Act 1991 ;

"Regulations of 2011" means the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011 (S.I. No. 456 of 2011);

"Regulations of 2017" means the Forestry Regulations 2017 (S.I. No. 191 of 2017);

"relevant application" means an application for the grant of a relevant licence;

"relevant licence" means a licence which, if granted, would result in relevant works;

"relevant monument" means the monument to which the relevant works, or proposed relevant works, relate;

"relevant opinion", in relation to an EIAR, means the opinion (if any) given under *section 34 (6)* by the Minister on the scope and level of detail of the information to be included in the EIAR;

"relevant works" means works at, on, in, under, to, or within the immediate surroundings of, a monument;

"screening determination for EIA" means a determination made under this Chapter as part of a screening for EIA;

"screening for EIA" means a determination made under this Chapter—

(a) as to whether proposed relevant works would be likely to have significant effects on the environment, and

(b) if the relevant works would be likely to have such effects, that an EIA is required;

"submissions" includes observations;

"Transboundary Convention" means the United Nations Economic Commission for Europe Convention on Environmental Impact Assessment in a Transboundary context, done at Espoo (Finland), on 25 of February 1991;

"Transboundary State" means any other state party to the Transboundary Convention or Member State.

(2) *Section 149* applies to the interpretation of this Chapter as it applies to the interpretation of *Part 7* .

(3) A word or expression that is used in this Chapter has the same meaning as it has in the EIA Directive except as otherwise provided for in this Chapter or where the context otherwise requires.

Application - *Chapter 6*

26. (1) Subject to *subsections (2)* and *(4)*, this Chapter applies to any (including any combination) of the following:

(a) a proposal by a person for the carrying out of relevant works;

(b) a proposal by a person to direct or authorise the carrying out of relevant works;

(c) the carrying out of relevant works by a person;

(d) the directing or authorising by a person of the carrying out of relevant works.

(2) (a) Subject to *paragraph (b)*, this Chapter (apart from this subsection) does not apply to—

(i) the authorisation of a proposal for the carrying out of relevant works, or

(ii) the authorisation of the carrying out of relevant works,

where such authorisation (whether a licence, consent, approval, permission or other authorisation) is granted, issued or given under an enactment (other than this Act) only for the purpose of making lawful the doing of an act as part of, or pertaining to, such works which would otherwise, in the absence of such authorisation, be unlawful under that enactment.

(b) The disapplication, effected by *paragraph (a)*, of this Chapter to an authorisation referred to in that paragraph shall not be construed to also disapply this Chapter to—

(i) the proposal for the carrying out of relevant works, or

(ii) the carrying out of relevant works,

to which that authorisation relates.

(3) *Sections 32* to *41* shall only apply to relevant works where the person proposing to carry out, or carrying out, the works has not applied for the relevant authorisation for the works.

(4) Where—

(a) a licence, consent, approval, permission or other authorisation is required to be granted, issued or given under an enactment (not being the Act of 2000) for works to be carried out which may require an EIA, and

(b) the Minister is satisfied that—

(i) such works are capable (and without having regard to any particular case) of being relevant works, and

(ii) it is reasonable and proportionate to do so and compatible with the protection of monuments,

the Minister may prescribe such licence, consent, approval, permission or other authorisation for the purposes of *paragraph (b)* of the definition of "relevant authorisation" in *subsection (5)*.

(5) In this section, "relevant authorisation" means—

(a) planning permission under the Act of 2000, or

(b) a licence, consent, approval, permission or other authorisation prescribed under *subsection (4)* for the purposes of this paragraph.

General protection and relevant works

27. (1) Subject to *subsection (2)* and *section 29 (4)*, a person shall not carry out relevant works where the relevant monument is a monument to which general protection applies, or direct or authorise the carrying out of such works, other than under and in accordance with a licence.

(2) (a) This subsection applies to relevant works other than relevant works—

(i) which require either—

(I) a licence by virtue of *Part 6* , or

(II) an AA necessitated by a provision of this Act,

or

(ii) which would require, if they were the subject of an application for a licence (even though no such application has for the time being been made), a screening determination for EIA or an EIA by virtue of *section 34 (2)(a)*.

(b) Subject to *subsections (3)* to *(8)*, it shall not be a contravention of *subsection (1)* for a person to carry out relevant works, or direct or authorise the carrying out of the relevant works, without a relevant licence (including without making a relevant application for such licence) if—

(i) subject to *paragraph (c)*, the person carrying out the relevant works, or directing or authorising the carrying out of the relevant works, has given the relevant days valid notice in writing to the Minister of his or her intention to carry out the relevant works, or direct or authorise the carrying out of the relevant works, as the case may be,

(ii) the relevant days referred to in *subparagraph (i)* have elapsed and the person has been given a notice under *subsection (4)(b)* stating that the notice referred to in *subparagraph (i)* is a valid notice, and

(iii) either—

(I) the relevant works are carried out in accordance with the conditions (if any) specified by the Minister under *section 28 (2)(a)* or *(4)*, or

(II) the person has been given a notice under *section 28 (2)(b)* stating that the Minister has decided that the relevant works should not be subject to conditions.

(c) Subject to *paragraph (d)*, a notice under *paragraph (b)(i)* from a person shall be deemed to be an application for consent referred to in paragraph (1) of Regulation 42 of the Habitats Regulations and, accordingly—

(i) subject to *subsection (4)(c)*, the Minister shall, before giving the notice concerned under *subsection (4)(b)*, carry out, in respect of that first-mentioned notice, a screening for AA (as construed in accordance with Part 5 of those Regulations) in accordance with paragraphs (6) and (7) of that Regulation,

(ii) the powers under that Regulation requiring the submission of a Natura impact statement (within the meaning of Regulation 2 of those Regulations) shall, in respect of that first-mentioned notice, be exercisable by the Minister, and

(iii) where the Minister determines that an AA is required—

(I) the first-mentioned notice shall cease to have effect, and

(II) the notice concerned under *subsection (4)(b)* shall inform that person of the Minister's determination and the reasons therefor and of the cesser referred to in *clause (I)*.

(d) *Paragraph (c)* shall not apply to a notice under *paragraph (b)(i)* where the Minister is satisfied that the relevant works to which the notice relates have been the subject of—

(i) a screening for AA (as construed in accordance with Part 5 of the Habitats Regulations), under another enactment (whether the Act of 2000 or otherwise), which complies with Part 5 of the Habitats Regulations, or

(ii) an AA under another enactment from which it can be concluded that the carrying out of the relevant works would not be incompatible with that AA.

(3) A notice under *subsection (2)(b)(i)* shall be in the specified form and, without prejudice to the generality of *section 223* , shall—

(a) state the name and address of the person giving the notice and, if available, a telephone number at which he or she may normally be contacted,

(b) where the monument to which the notice relates is included in a general notice or draft general notice—

(i) identify that monument by reference to any individual identification number used in respect of it in that notice, and

(ii) identify the notice by reference to the geographical area the subject of the notice,

(c) where a specific notice or a *section 23* consultation notice was given, identify the monument to which the notice under *subsection (2)(b)(i)* relates by reference to any identification number used in respect of it in the specific notice or *section 23* consultation notice, as the case may be,

(d) state the general nature of the relevant works and—

(i) whether they will involve the disturbance of the surface of land or the substratum of land or interference with any building or structure, and

(ii) whether they will effect a European site and, if so, the likely nature of that effect,

(e) specify whether the relevant works will take place in relation to all or part of the monument and, if the latter, identify such part,

(f) specify, by reference to calendar dates, the period during which the relevant works are intended to be carried out or that it is intended that the relevant works will be carried out on an ongoing basis, as the case may be,

(g) provide such other information as may be prescribed, whether generally or in respect of any particular monument or class of monuments, and

(h) be given to the Minister by sending it—

(i) by prepaid registered post or by any form of recorded delivery service in an envelope addressed to the Minister at his or her office, or

(ii) by sending it by such other means as may be prescribed.

(4) (a) A notice purporting to be a notice under *subsection (2)(b)(i)* but which does not comply with the requirements of *subsection (3)* shall not be a valid notice under *subsection (2)(b)(i)* for the purposes of this Act.

(b) Subject to *subsection (2)(c)*, on receipt of a notice under *subsection (2)(b)(i)* from a person, the Minister shall, as soon as is practicable after he or she is satisfied that the notice does or does not comply with the requirements of *subsection (3)*, give the person a notice in writing, as appropriate—

(i) stating that the Minister is satisfied that the first-mentioned notice is a valid notice, or

(ii) stating that the Minister is satisfied that the first-mentioned notice is not a valid notice in that it does not comply with such of those requirements as are identified in the second-mentioned notice.

(c) The Minister shall publish a notice of (and containing) his or her screening determination for AA in such form or manner as he or she considers appropriate including publication on the website of the Department, together with information on the procedure for seeking to have the decision judicially reviewed.

(5) A notice under *subsection (2)(b)(i)* shall have effect only to make lawful the relevant works to which it relates and in respect of which the period referred in that subsection has elapsed and which are carried out—

(a) within the period specified in the notice pursuant to *subsection (3)(f)* or within such other period as may be specified in conditions (if any) specified by the Minister under *section 28 (2)(a)* or *(4)*, and

(b) in accordance with any conditions (if any) specified by the Minister under *section 28 (2)(a)* or *(4)*.

(6) A notice under *subsection (2)(b)(i)* shall not operate to prevent special protection from being applied to the monument to which the notice relates.

(7) A notice under *subsection (2)(b)(i)* shall not be capable of being given in respect of—

(a) relevant works in respect of which a relevant licence has been applied for pending a decision by the Minister on such application,

(b) relevant works in respect of which a relevant licence has been granted under this Act unless, within a period of 10 working days following the grant of the licence, the person to whom it has been granted gives notice in the specified form to the Minister that he or she does not accept the licence, or

(c) relevant works which are (whether in whole or part), in addition to being a licensable activity under this section, a licensable activity under another provision of this Act.

(8) The reference to "relevant days" in *subsection (2)(b)(i)* means—

(a) subject to *paragraph (b)*, 90 days, or

(b) such shorter number of days as is prescribed for relevant works which the Minister is satisfied are so minor or trivial, or otherwise insignificant, that the 90 days referred to in *paragraph (a)* would be excessively long in the case of such works.

(9) (a) On receipt of a notice under *subsection (2)(b)(i)*, the Minister shall consider whether special protection should be applied to the monument to which the notice relates and, if the Minister considers that special protection should be applied to the monument, the period referred to in *subsection (2)(b)(i)* shall cease to run from the date on which the Minister gives the *section 22* consultation notice concerned or publishes that notice in accordance with *section 22 (2)*, as the case may be.

(b) Where the period referred to in *subsection (2)(b)(i)* has ceased to run by virtue of *paragraph (a)* but the Minister subsequently gives the person concerned referred to in that subsection a notice in writing stating that special protection will not be applied to the monument for the time being, the unexpired portion of that period shall begin to run from the giving of that notice.

(10) Where, under *subsection (9)*, the Minister decides that special protection will not be applied to a monument to which a notice under *subsection (2)(b)(i)* relates, that decision shall not operate to prevent special protection from being applied to the monument subsequently.

(11) Where a person who has given a notice under *subsection (2)(b)(i)* applies for a licence in respect of any or all of the relevant works to which the notice relates, the notice shall cease to have effect.

(12) Where the Minister receives a notice under *subsection (2)(b)(i)* and is of the opinion that the relevant works to which the notice relates may, if carried out, have significance to another state, he or she may, at his or her discretion, consult with an authority in that state, being an authority that has responsibilities as regards historic heritage in that state, in order to obtain the authority's views (if any) on such works.

Attachment of conditions to certain relevant works

28. (1) Where—

(a) following the consideration referred to in *section 27 (9)*, the Minister decides not to apply special protection to the monument, or

(b) the Minister decides, following consultation under *section 22* , not to apply special protection to the monument,

the Minister shall consider whether or not the relevant works in respect of which the notice concerned has been given under *section 27 (2)(b)(i)* should be made subject to conditions relating to any or all of the matters specified in *subsection (5)*.

(2) Where the Minister decides that—

(a) relevant works should be subject to conditions, he or she shall, prior to the elapse of the notice period under *section 27 (2)(b)(i)*, specify such conditions and give notice in writing of them to the person who gave the notice concerned under that section, or

(b) relevant works should not be subject to conditions, he or she shall, prior to the elapse of the notice period under *section 27 (2)(b)(i)*, give notice in writing of that decision to the person who gave the notice concerned under that section.

(3) Conditions specified under *subsection (2)(a)* may, subject to *subsection (5)*, include requirements that specified actions or steps be taken prior to the commencement of the relevant works in respect of which notice has been given under *section 27 (2)(b)(i)* and that such works shall not commence until the Minister has had an opportunity to consider any report or assessment prepared on foot of the taking of such actions or steps, as the case may be, but any such consideration by the Minister shall not exceed a period of 30 working days following receipt of any such report or assessment.

(4) Subject to *subsection (5)*, the Minister may, following consideration of any report or assessment received by him or her under *subsection (3)*, specify further or additional conditions to which the relevant works concerned shall be subject and any conditions so specified shall have effect as if they were conditions specified under *subsection (2)(a)* and the Minister shall give notice of them in writing to the person who gave the notice concerned under *section 27 (2)(b)(i)* and shall do so within the period specified in *subsection (3)*.

(5) Conditions specified under *subsection (2)(a)* or *(4)* may require all or any of the following:

(a) the carrying out of an assessment of heritage interest or potential including, without prejudice to the generality of the foregoing, an assessment by way of archaeological excavation, use of detection devices or any form of photographic or geophysical survey equipment or any other appropriate form of survey or inspection;

(b) the recording of the monument as a whole or any part or aspect of it (including its immediate surroundings) or any objects on, in, under or within it or its immediate surroundings including, without prejudice to the generality of the foregoing, recording by way of archaeological excavation, use of detection devices or any form of photographic or geophysical survey equipment or any other appropriate form of survey or inspection;

(c) the carrying out of any form of monitoring (including archaeological monitoring), supervision or inspection;

(d) the salvaging, collection or protection of any part of the monument (including its immediate surroundings) or any object on, in, under or within it or its immediate surroundings and, where appropriate, the preparation of such part or object for deposition in an appropriate museum or other site for such deposition;

(e) the specification of the time period when the relevant works are to be carried out;

(f) that the relevant works in respect of which notice was given under *section 27 (2)(b)(i)* and any thing required to be done by *paragraph (a)*, *(b)*, *(c)* or *(d)* be done in a specified manner or be funded or carried out by a specified person or a person falling within a specified category of persons including, without prejudice to the generality of the foregoing, that the doing of those relevant works or any thing referred to in that paragraph be subject to further conditions of any of the type set out in *section 151 (4)* and, for that purpose, any reference in *section 151 (4)* to "the licensable activity" shall be construed as a reference to the relevant works in respect of which notice was given under *section 27 (2)(b)(i)* and any thing required to be done by *paragraph (a)*, *(b)*, *(c) or (d)*.

(6) A reference in this section to an object on, in, under or within a monument includes a reference to an object found in the course of carrying out any thing referred to in *paragraph (a)*, *(b)*, *(c) or (d)* of *subsection (5)*.

(7) The carrying out of any thing in fulfilment of a condition specified by the Minister under *subsection (2)(a)* or *(4)* shall not, in order for it to be lawful, require—

(a) the giving of a notice under *section 27 (2)(b)(i)*, or

(b) the granting of a licence except in so far as it would be a licensable activity under any provision of this Act other than this section.

(8) As the Minster thinks fit, a notice under *subsection (2)(a)* or *(b)* may be combined with a notice under *section 27 (4)(b)* stating that the notice concerned under *section 27 (4)(b)(i)* is a valid notice.

Exemption of certain relevant works from *section 27*

29. (1) In this section, "authorisation" includes a licence, consent, approval, permission or direction.

(2) Subject to *subsections (3)* and *(6)*, a class of relevant works may be prescribed as a class of relevant works to which *section 27* shall not apply.

(3) The Minister shall not exercise his or her power under *subsection (2)* in respect of a class of relevant works unless—

(a) the following requirements are met:

(i) that class of relevant works requires an authorisation under another enactment before that class of relevant works can be carried out;

(ii) that authorisation may be granted subject to conditions relating to the protection of monuments;

(iii) the enactment under which that authorisation may be granted provides for the Minister to be notified or consulted, by the person who may grant the authorisation and before the authorisation is granted, on the potential effect that the grant of the authorisation may have on monuments,

or

(b) the Minister is satisfied that the class of relevant works would not be likely to have significant effects on the environment or a European site by virtue, *inter alia*, of their nature, size or location (or any combination thereof) and the class of relevant works either —

(i) cannot reasonably be considered as creating a risk of damage to monuments, or

(ii) was an established recurrent activity before the monuments concerned became monuments to which general protection applies and in respect of which it would, in all the circumstances of the case, be reasonable to exercise that power.

(4) Subject to *subsection (5)*, *section 27* shall not apply to relevant works falling within a class of relevant works prescribed under *subsection (2)*.

(5) This section shall be deemed never to have applied to works falling within a class of works, prescribed under *subsection (2)*, to the extent to which a person referred to in *subsection (3)(a)(iii)* has failed to give the notification, or carry out the consultation, as the case may be, referred to in *subsection (3)(a)(iii)* in respect of those works.

(6) The Minister shall not exercise his or her power under *subsection (2)* in respect of a class of relevant works in such a way as to prevent access, by members of the public, to a monument.

Special protection and relevant works

30. Subject to *section 31 (3)*, a person shall not carry out relevant works where the relevant monument is a monument to which special protection applies, or direct or authorise the carrying out of such works, other than under and in accordance with a licence.

Exemption of certain relevant works from *section 30*

31. (1) Subject to *subsections (2)* and *(4)*, a class of relevant works may be prescribed as a class of relevant works to which *section 30* shall not apply.

(2) The Minister shall not exercise his or her power under *subsection (1)* in respect of a class of relevant works unless the Minister is satisfied that the class of relevant works would not be likely to have significant effects on the environment or a European site by virtue, *inter alia*, of their nature, size or location (or any combination thereof) and the class of relevant works either—

(a) cannot reasonably be considered as creating a risk of damage to monuments to which special protection applies, or

(b) was an established recurrent activity before the monuments concerned became monuments to which special protection applies and in respect of which it would, in all the circumstances of the case, be reasonable to exercise that power.

(3) *Section 30* shall not apply to relevant works falling within a class of relevant works prescribed under *subsection (2)*.

(4) The Minister shall not exercise his or her power under *subsection (1)* in respect of a class of relevant works in such a way as to prevent access, by members of the public, to a monument.

Application for screening for EIA

32. (1) An applicant for a relevant licence shall make an application in the specified form to the Minister for a screening determination for EIA where the proposed relevant works—

(a) fall within a class specified in Part 2 of Schedule 5 to the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) but do not exceed the relevant quantity, area or other limit specified in that Part,

(b) consist of an activity within the meaning of Regulation 2(1) of the Regulations of 2011, or

(c) consist of development within the meaning of Regulation 12 of the Regulations of 2017.

(2) Without prejudice to the generality of *section 223* , an application under *subsection (1)* shall contain—

(a) the name and address of the applicant,

(b) where the applicant is not the owner or occupier of the land the subject of the proposed relevant works, the name and address of the owner and, where the owner is not the occupier of the land, the occupier,

(c) a location map for the proposed relevant works, and

(d) a description of the nature and extent of the proposed relevant works, their characteristics, their likely significant effects on the environment (including the information specified in Annex IIA to the EIA Directive) including, where relevant, information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive have been taken into account.

(3) An application under *subsection (1)* may be accompanied by a description of the features (if any) of the proposed relevant works and the measures (if any) envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(4) An application under *subsection (1)* shall be accompanied by the prescribed fee (if any).

(5) For the purposes of enabling the Minister to carry out a screening for EIA on foot of an application under *subsection (1)*, he or she may do either or both—

(a) seek further information that he or she considers necessary from the applicant or any other person that the Minister considers appropriate, and

(b) consult the Board, the local authority in whose functional area the relevant monument is situated and the regional assembly in whose administrative area such monument is situated and any other persons who the Minister considers appropriate in the circumstances,

and, where *paragraph (a)* or *(b)* applies, the Minister shall specify the period within which the information or views concerned are required to be received by the Minister.

(6) Subject to *subsection (7)*, where the applicant is not the owner or occupier of the land the subject of the proposed relevant works, the Minister shall invite in writing—

(a) the owner to make a submission on an application made under *subsection (1)*, and

(b) where the owner is not the occupier of the land, the occupier of that land to make such a submission,

and, where *paragraph (a)* or *(b)* applies, the Minister shall specify the period within which the submission or submissions is or are required to be received by the Minister.

(7) The invitation under *subsection (6)* shall state that the owner or occupier may provide a description of the features (if any) of the proposed relevant works and the measures (if any) envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the relevant works.

(8) The Minister may reject an application under *subsection (1)* if, in his or her opinion, the application is incomplete in any material detail.

(9) Where the Minister rejects an application in accordance with *subsection (8)*, he or she shall—

(a) subject to *subsection (10)*, return the documents to which *subsection (2)* relates to the applicant, and

(b) give reasons for his or her decision to the applicant,

and, where the applicant is not the owner or occupier of the land the subject of the proposed relevant works, the Minister shall also notify the owner and, where the owner is not the occupier of the land, the occupier of his or her decision under *subsection (8)*.

(10) *Subsection (9)* is without prejudice to the Minister—

(a) making a copy of a document,

(b) retaining an electronic copy of a document, or

(c) by agreement with the applicant concerned, retaining a document,

to which that subsection relates.

Determination of application for screening for EIA

33. (1) The Minister shall make a screening determination for EIA in respect of the proposed relevant works on the basis of the information provided by the applicant under *section 32 (2)* and, as the case may be, *section 32 (3)* taking into account the relevant selection criteria specified in Annex III to the EIA Directive and, where relevant, the results of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation (other than the EIA Directive).

(2) Where the Minister determines that the proposed relevant works would be likely to have significant effects on the environment, the screening determination for EIA shall specify, with reference to the relevant criteria listed in Annex III to the EIA Directive, the main reasons for that determination.

(3) Where the Minister determines that the proposed relevant works would not be likely to have significant effects on the environment, the screening determination for EIA shall specify, with reference to the relevant criteria listed in Annex III to the EIA Directive, the main reasons for that determination and any of the following that the Minister has relied upon in making the decision:

(a) any features of such works to avoid or prevent significant adverse effects on the environment;

(b) measures proposed by the Minister, the applicant or another person, as the case may be, to avoid or prevent what would otherwise be significant adverse effects on the environment.

(4) (a) Subject to *paragraph (b)*, the Minister shall make his or her screening determination for EIA as soon as possible and within 90 days from the date on which the applicant has submitted to the Minister all the information referred to in *section 32 (2)* or, as the case may be, *section 32 (3)*.

(b) The Minister may, in exceptional cases, including where the nature, complexity, location or size of the proposed relevant works justifies it, extend the 90 day period referred to in *paragraph (a)* in order to make his or her determination and in such cases he or she shall inform the applicant (and, where the applicant is not the owner or occupier of the land the subject of the proposed relevant works, the owner and, where the owner is not the occupier of the land, the occupier) in writing of the reasons justifying the extension and of the date when his or her determination is expected.

(5) Where, in consequence of the Minister's screening determination for EIA, the applicant is not required to submit an EIAR to the Minister, the applicant shall comply with any specified measures relied upon by the Minister in accordance with *subsection (3)(b)* to make a determination.

(6) The Minister shall publish a notice of (and containing) his or her screening determination for EIA (including the matters referred to in *subsection (2)* or *(3)*, as the case may be) on the website of the Department and in such other (if any) form or manner as he or she considers appropriate, together with information on the procedure for seeking to have the decision judicially reviewed.

Relevant works at, etc., relevant monument to be subject to EIA

34. (1) The Minister shall, in accordance with *subsection (2)*, and as part of his or her consideration of a relevant application, ensure that, before the application is determined, proposed relevant works likely to have significant effects on the environment by virtue, *inter alia*, of their nature, size or location (or any combination thereof) are made subject to an EIA.

(2) (a) An EIA shall be carried out by the Minister in respect of a relevant application where the proposed relevant works would—

(i) be of a class specified in Part 1 of Schedule 5 to the Planning and Development Regulations 2001 and—

(I) such works would exceed any relevant quantity, area or other limit specified in that Part, or

(II) no quantity, area or other limit is specified in that Part in respect of such works,

(ii) be of a class specified in Part 2 of Schedule 5 to the Planning and Development Regulations 2001 and—

(I) such works would exceed any relevant quantity, area or other limit specified in that Part, or

(II) no quantity, area or other limit is specified in that Part in respect of such works,

or

(iii) consist of development referred to in Regulation 13(2)(a) or (b) of the Regulations of 2017.

(b) An EIA shall be carried out by the Minister in respect of a relevant application where the proposed relevant works, if carried out, would result in the demolition of a relevant monument to which special protection applies.

(c) An EIA shall be carried out by the Minister in respect of a relevant application where the proposed relevant works—

(i) would be of a class specified in Part 2 of Schedule 5 to the Planning and Development Regulations but do not exceed the relevant quantity, area or other limit specified in that Part,

(ii) consist of an activity within the meaning of Regulation 2(1) of the Regulations of 2011, or

(iii) consist of a development within the meaning of Regulation 12 of the Regulations of 2017,

and the Minister determines, pursuant to *section 33* , that such works would be likely to have significant effects on the environment.

(3) The applicant shall, where the Minister is required by *subsections (1)* and *(2)* to carry out an EIA in respect of the relevant application, submit to the Minister an EIAR in respect of the proposed relevant works.

(4) Where the applicant has not submitted an EIAR to the Minister in accordance with *subsection (3)*, the Minister shall, by notice in writing given to the applicant, require the applicant to submit to the Minister an EIAR in respect of the proposed relevant works and the applicant shall, as soon as is practicable after being given that notice, comply with that requirement.

(5) (a) Subject to *paragraphs (b)* to *(d)*, an EIAR submitted to the Minister under this Chapter shall include, in relation to the proposed relevant works, at least the following information:

(i) a description of the project comprising information on the site, design, size and other relevant features of the project;

(ii) a description of the likely significant effects of the project on the environment;

(iii) a description of the features of the project and measures envisaged in order to avoid, prevent or reduce and, if possible, offset the likely significant adverse effects on the environment;

(iv) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;

(v) a non-technical summary of the information referred to in *subparagraph (i)* to *(iv)*;

(vi) any additional information specified in Annex IV of the EIA Directive relevant to the specific characteristics of a particular project or type of project and to the environmental features likely to be affected.

(b) Where a relevant opinion has been given, the EIAR shall be based on that opinion and include the information that may reasonably be required for reaching a reasoned conclusion on the significant effects of the project on the environment taking into account current knowledge and methods of assessment.

(c) The applicant shall, with a view to avoiding duplication of EIAs, take into account, in preparing the EIAR, the available results of other relevant assessments under European Union or national law.

(d) The applicant shall ensure that the EIAR is prepared by persons who have sufficient expertise in the matters to be the subject of the EIAR.

(6) Subject to *subsections (7)* to *(11)*, if the applicant, before submitting the EIAR to the Minister under this Chapter, so requests, the Minister shall, after consulting the applicant, the Board, the local authority in whose functional area the relevant monument is situated and the regional assembly in whose administrative area such monument is situated and any other persons who the Minister considers appropriate in the circumstances, give an opinion in writing on the scope and level of detail of the information to be included in the EIAR.

(7) A request for a relevant opinion shall state the following:

(a) the name, address, telephone number and e-mail address (if any), of the applicant;

(b) the site, townland or postal address of the land on which the relevant monument is situated;

(c) a brief description of the proposed relevant works and of its possible effects on the environment.

(8) Where the Minister considers that he or she has insufficient information to enable him or her to give a relevant opinion, the Minister shall, as soon as is practicable, inform the applicant in writing that he or she is required to submit to the Minister, in writing, specified further information within a specified period, and the applicant shall comply with that requirement.

(9) In dealing with a request for a relevant opinion, the Minister shall have regard to the following:

(a) the information required to enable the Minister to perform his or her function under *subsection (1)* or to ensure compliance with the EIA Directive;

(b) the consultations under *subsection (6)*;

(c) any information provided under *subsection (7)* and any further information submitted under *subsection (8)*.

(10) The relevant opinion shall indicate the extent to which the additional information specified in Annex IV of the EIA Directive should be contained in the EIAR concerned.

(11) The giving by the Minister of the relevant opinion shall not prevent the Minister from requiring an applicant to submit further information under this Chapter.

Submissions on EIAR may be made to Minister

35. (1) Subject to *subsection (2)*, where the applicant is required under this Chapter to submit an EIAR to the Minister, he or she shall, not more than 2 weeks before so submitting the EIAR, publish a notice of his or her intention to do so—

(a) in at least one national newspaper,

(b) on that part of the website of the Department set aside for that purpose, and

(c) on the EIA portal.

(2) A notice under *subsection (1)* shall state the following:

(a) the name of the applicant required to submit the EIAR;

(b) the site, townland or postal address of the land on which the relevant monument is situated;

(c) the nature and extent of the proposed relevant works;

(d) that an EIAR in relation to the proposed relevant works will be submitted to the Minister under this Chapter;

(e) that the EIAR will be available for inspection free of charge or purchase, at a fee not exceeding the reasonable cost of making a copy, during office hours at the offices of the Minister or such other convenient site as the Minister may specify;

(f) that the Minister, when he or she receives the EIAR, will make the EIAR available for inspection, for at least 5 weeks—

(i) on that part of the internet website of the Department set aside for that purpose, and

(ii) on the EIA portal;

(g) that submissions in relation to the EIAR may be made in writing to the Minister within the 5 weeks referred to in *paragraph (f)*.

(3) The Minister shall specify such arrangements as he or she considers appropriate to allow the matters referred to in *paragraph (e)*, *(f)* and *(g)* of *subsection (2)* to have effect.

(4) When submitting an EIAR to the Minister under this Chapter, the applicant shall accompany it with a copy of the relevant page of the national newspaper in which a notice under *subsection (1)* was published.

(5) Where it appears to the Minister that a notice published under *subsection (1)*—

(a) does not comply with one or more than one of the requirements of that subsection or *subsection (2)*, or

(b) because of its content or for any other reason, is misleading or inadequate for the information of the public,

the Minister shall, by notice in writing given to the applicant, require the applicant to publish a further notice in the manner specified by the Minister and to provide to the Minister evidence that that further notice has been so published, and the applicant shall comply with those requirements.

(6) Where the applicant submits an EIAR to the Minister under this Chapter, the Minister, for consultation purposes, shall, as soon as is practicable following receipt of the EIAR, send a copy of the EIAR to the Board, the local authority in whose functional area the relevant monument is situated, the regional assembly in whose administrative area such monument is situated and any other person that the Minister considers appropriate in the circumstances.

(7) The Minister shall, when sending an EIAR to a person under *subsection (6)*, inform the person that submissions in relation to the EIAR may be made in writing to the Minister within the 5 weeks referred to in *subsection (2)(f)*.

Minister's consideration of EIAR and power to require further action by applicant for relevant licence

36. (1) (a) The Minister shall consider whether an EIAR submitted under this Chapter to him or her—

(i) complies with the requirements of this Chapter,

(ii) complies with the relevant opinion, and

(iii) identifies and describes adequately the significant direct and indirect effects on the environment of the proposed relevant works.

(b) The Minister shall ensure that he or she has access, or has access as necessary, to persons who have sufficient expertise in the matters the subject of the EIA.

(c) Where necessary, the Minister may require the applicant to submit to him or her any additional information, specified in Annex IV of the EIA Directive, which is directly relevant to the Minister reaching the reasoned conclusion on the significant effects of the project on the environment, and the applicant shall comply with that requirement.

(2) Where the Minister considers that an EIAR submitted under this Chapter to him or her—

(a) does not comply with the requirements of this Chapter,

(b) does not comply with the relevant opinion (if any), or

(c) does not identify or describe adequately the direct and indirect effects on the environment of the proposed relevant works,

the Minister shall require the applicant to submit to him or her any further information that the Minister considers necessary for the purpose of remedying the matters concerned referred to in *paragraphs (a)* to *(c)*, and the applicant shall comply with that requirement.

(3) In addition to any requirement arising under *subsection (1)(c)* or *(2)*, the Minister shall require the applicant to provide any further information that the Minister considers necessary to enable him or her to carry out an EIA, and the applicant shall comply with that requirement.

(4) The Minister shall give notice in writing to the applicant of any requirement for further information under *subsection (1)(c)*, *(2)* or *(3)* and any notice so given to the applicant shall, where applicable, specify in what way the EIAR does not comply with this Chapter or with a relevant opinion or does not identify or describe adequately the significant direct and indirect effects on the environment of the proposed relevant works.

(5) Where the Minister considers that further information submitted under *subsection (1)(c)*, *(2)* or *(3)* contains significant additional data in relation to the effects on the environment of the proposed relevant works, the Minister shall, as soon as practicable after receipt of that further information—

(a) send a copy of the further information to any person consulted under *section 34 (6)* and inform that person that submissions in relation to the further information may be made in writing to the Minister within a specified period,

(b) notify any person who made submissions in relation to the proposed relevant works of the matters specified in *subsection (6)*, and

(c) require the applicant to publish a notice in at least one national newspaper stating the matters specified in *subsection (7)* (and the applicant shall comply with that requirement).

(6) The matters specified for the purpose of *subsection (5)(b)* are the following:

(a) that significant additional data in relation to the effects on the environment of the proposed relevant works has been provided to the Minister and that the further information submitted to the Minister containing that data is available for inspection, free of charge or for purchase at a fee not exceeding the reasonable cost of making a copy, at the offices of the Minister or such other convenient site as the Minister may specify;

(b) that the further information is available for inspection—

(i) on that part of the website of the Department set aside for that purpose, and

(ii) on the EIA portal;

(c) that submissions in relation to the further information may be made in writing to the Minister within a period specified by the Minister.

(7) The matters specified for the purpose of *subsection (5)(c)* are the following:

(a) the name of the applicant required to submit the EIAR;

(b) the site, townland or postal address of the land on which the relevant monument is situated;

(c) that significant additional data in relation to the effects on the environment of the proposed relevant works has been provided to the Minister and that the further information submitted to the Minister containing that data is available for inspection, free of charge or for purchase at a fee not exceeding the reasonable cost of making a copy, at the offices of the Minster or such other convenient site as the Minister may specify;

(d) that the further information is available for inspection—

(i) on that part of the website of the Department set aside for that purpose, and

(ii) on the EIA portal;

(e) that submissions in relation to the further information may be made in writing to the Minister within a period specified by the Minister.

(8) The Minister shall specify such arrangements as he or she considers appropriate to allow the matters referred to in *paragraphs (a)*, *(b)* and *(c)* of *subsection (6)* and *paragraphs (c)*, *(d)* and *(e)* of *subsection (7)* to have effect.

(9) Where it appears to the Minister that a notice published under *subsection (5)(c)*—

(a) does not comply with one or more than one of the requirements of that subsection or *subsection (7)*, or

(b) because of its content or for any other reason, is misleading or inadequate for the information of the public,

the Minister shall, by notice in writing given to the applicant, require the applicant to publish a further notice in the manner specified by the Minister and to provide to the Minister evidence that that further notice has been so published, and the applicant shall comply with those requirements.

Carrying out of EIA by Minister, etc., and grant or refusal to grant relevant licence

37. (1) The Minister shall not grant a relevant licence other than where the requirements of this Chapter, including any requirement placed on the applicant by the Minister under this Chapter, have been complied with.

(2) In carrying out an EIA under this Chapter, the Minister shall take into account the following:

(a) the EIAR which was submitted to the Minister;

(b) any further information submitted to the Minister under this Chapter;

(c) any submissions made under this Chapter in relation to the environmental effects of the proposed relevant works;

(d) the views (if any) provided by any other Transboundary State under this Chapter.

(3) Where an EIA has been carried out by the Minister under this Chapter, the Minister shall, in deciding whether or not to grant a relevant licence, duly take into account the following:

(a) the EIA and its results and findings;

(b) the EIAR which was submitted to the Minister;

(c) any further information submitted to the Minister under this Chapter;

(d) any submissions made under this Chapter in relation to the environmental effects of the proposed relevant works;

(e) the views (if any) provided by any other Transboundary State under this Chapter.

(4) In carrying out an EIA under this Chapter, the Minister may take into account any reports prepared by his or her officers, agents or servants or by any consultants or advisors engaged by the Minister, whether or not for valuable consideration, for the purpose of assisting him or her in the performance of his or her functions under this Chapter.

(5) Where an EIA has been carried out by the Minister under this Chapter, the Minister may, in deciding whether or not to grant a relevant licence, take into account any reports prepared by his or her officers, servants or agents or by any consultants or advisors engaged by the Minister, whether or not for valuable consideration, for the purpose of assisting him or her in the performance of his or her functions under this Chapter.

(6) (a) Subject to *paragraph (b)*, where, following the carrying out of an EIA under this Chapter, the Minister exercises his or her discretion to grant a relevant licence, the Minister may attach to such licence any conditions (in this subsection referred to as the "relevant conditions") which the Minister considers necessary to avoid, prevent, reduce and, if possible, offset the significant adverse effects on the environment of the proposed relevant works.

(b) Subject to *paragraph (c)*, the Minister shall include, in the relevant conditions, additional conditions which provide for the monitoring (whether by existing or new monitoring arrangements or a combination thereof) of—

(i) the measures implemented by the relevant conditions to avoid, prevent, reduce and, if possible, offset the significant adverse effects on the environment of the relevant works, and

(ii) any significant adverse effects on the environment of the relevant works.

(c) The Minister shall ensure that the types of parameters monitored and the duration of the monitoring are proportionate to the nature, site and size of the project concerned and the significance of the project's effects on the environment.

(7) *Subsection (6)* is without prejudice to any other power of the Minister under this Act to attach conditions to a licence.

(8) *Subsections (3)*, *(5)* and *(6)* shall have effect notwithstanding any provision of *Part 7* relating to the matters to be considered by the Minister in the exercise of his or her discretion as to whether or not to grant a relevant licence.

Relevant works which may affect environment in another Transboundary State

38. (1) Where the Minister considers that the proposed relevant works that is the subject of an EIAR under this Chapter would be likely to have significant effects on the environment in another Transboundary State, or where another Transboundary State considers that the proposed relevant works would be likely to have such effects and so requests, the Minister shall, as soon as possible, send to that Transboundary State —

(a) a description of the proposed relevant works and any available information on its possible effects on the environment in that Transboundary State, and

(b) relevant information about the procedure for deciding whether or not to grant the relevant licence concerned,

and shall give to that Transboundary State a reasonable time to indicate whether it wishes to provide views on those effects.

(2) Where a Transboundary State which has received information under *subsection (1)* indicates that it wishes to provide views on the likely effects on the environment of the proposed relevant works, the Minister shall send to that Transboundary State —

(a) if he or she has not already done so, a copy of the EIAR submitted to the Minister under this Chapter, and

(b) any further relevant information about the procedure for deciding whether or not to grant the relevant licence concerned.

(3) Where a Transboundary State has, under *subsection (2)*, indicated that it wishes to provide views on the likely effects on the environment of the proposed relevant works, the Minister shall consult with that Transboundary State regarding the potential effects of the proposed relevant works on the environment in that Transboundary State and the measures envisaged to reduce or eliminate such effects.

(4) The Minister shall notify a Transboundary State which was consulted under *subsection (3)* of his or her decision as to whether or not to grant the relevant licence concerned.

Public notice of Minister's decision to grant or refuse to grant relevant licence

39. (1) The Minister shall, as soon as is practicable following the making of a decision in relation to whether or not to grant a relevant licence after carrying out an EIA under this Chapter (but, in any case, not later than 3 working days after making that decision)—

(a) publish a notice of the decision in at least one national newspaper,

(b) arrange to make the EIAR submitted under this Chapter and information on the decision available for inspection by members of the public during a period specified by the Minister, and

(c) make the notice referred to in *paragraph (a)*, and the EIAR and information referred to in *paragraph (b)*, available for inspection—

(i) on that part of the website of the Department set aside for that purpose, and

(ii) on the EIA portal.

(2) Information made available under *subsection (1)(b)* and *(c)* shall include the following:

(a) the content of the relevant licence, if granted, including any conditions attached to the licence;

(b) the Minister's evaluation of the significant direct and indirect effects of the relevant works on the factors specified in points (a) to (d) of Article 3.1 of the EIA Directive and on the interaction of those factors;

(c) having examined the concerns and opinions expressed by the public concerned, the main reasons and considerations on which the decision (including any conditions attached to the relevant licence) is based, including information about the public participation process (including a summary of the results of the consultations and the information gathered pursuant to the Transboundary Convention and Articles 5 to 7 of the EIA Directive and how those results have been incorporated in the decision or otherwise addressed, in particular the comments received from the affected Transboundary State referred to in *section 38*);

(d) a description, where necessary, of the main measures to be taken to avoid, prevent, reduce and, if possible, offset the significant adverse effects on the environment and the main measures to be taken to monitor the implementation of the first-mentioned measures;

(e) information for the public on the procedures available to review the substantive and procedural legality of the decision.

Exemption from requirements of *sections 32* to *39* or *34* to *39*

40. (1) A person may, before making an application for consent for relevant works, request the Minister to grant an exemption in respect of the relevant works from the requirements of *sections 32* to *39* or *34* to *39* , as appropriate, and the Minister may, subject to this section, grant such exemption.

(2) Before determining an application under *subsection (1)*, the Minister shall—

(a) invite the local authority in whose functional area the person proposes to carry out the relevant works, after having first consulted with the authority's elected members from the relevant municipal district or local electoral area (within the meaning of section 2 of the Act of 2001), to make (within such period as the Minister may specify) observations to the Minister in relation to the request,

(b) consider whether any other state party to the Transboundary Convention should be informed about the relevant works and, if the Minister considers that it should, invite such state party to make (within such period as the Minister may specify) observations to the Minister in relation to the request, and

(c) consider any such submissions made and any submissions made by the person in his or her application.

(3) The Minister shall not grant an exemption under this section unless he or she is satisfied that —

(a) exceptional circumstances warrant the granting of such exemption,

(b) the requirement to comply with *sections 32* to *39* or *34* to *39* , as appropriate, in relation to the proposed relevant works would adversely affect the purpose of the relevant works, and

(c) the objectives of the EIA Directive are capable of being achieved by other means, in particular by the carrying out of any other form of assessment of the effects of the relevant works required by law in relation to the relevant works.

(4) Where the Minister grants an exemption under this section, he or she shall, as soon as may be thereafter—

(a) publish a notice of the grant and the reasons therefor—

(i) on the website of the Department, and

(ii) in a national newspaper,

(b) give notice in writing of the grant and the reasons therefor to—

(i) the local authority in whose functional area the relevant works are proposed to be located,

(ii) any state party to the Transboundary Convention which the Minister invited to make observations in accordance with *subsection (2)*, and

(iii) the European Commission,

before the Minister makes a determination in relation to the application for consent for the relevant works to which the exemption applies.

(5) The Minister shall not grant consent for any relevant works in respect of which an application under this section is pending before the Minister and, if the Minister purports to grant a consent in contravention of this subsection, the consent shall not be valid.

(6) Where the Minister—

(a) is satisfied that the carrying out of relevant works or part of relevant works is for the sole purpose of the defence of the State or responding to a civil emergency, and

(b) considers that the application of this Part to the relevant works or such part of the relevant works would adversely affect that purpose,

he or she may, by order, declare that this Part shall not apply to the relevant works or such part of the relevant works.

(7) This Chapter shall not apply to relevant works or part of relevant works—

(a) in respect of which an exemption has been granted under this section, or

(b) declared by order under *subsection (6)* not to apply to that relevant works or such part.

Judicial review

41. (1)(a) A notice under *section 27 (4)(c)*, *33 (6)*, *39 (1)*, *40 (4)* or *151 (9)(c)* shall inform the public that a person may question the validity of the decision that an EIA or an AA is or is not required or, as the case may be, to grant or not grant a relevant licence or, as the case may be, to grant an exemption under *section 40* from the requirements of *sections 32* to *39* or *34* to *39* , as appropriate, by way of an application for judicial review under the Order.

(b) The notice shall identify where practical information on the review mechanism can be found.

(2) A person shall not in legal proceedings question the validity of—

(a) a decision, act or omission made or done by the Minister under this Chapter in the performance or purported performance of a function under this Chapter for which an EIA or an AA is required, or

(b) a licence,

otherwise than by way of an application for judicial review under the Order.

(3) The High Court shall not grant leave for judicial review under this section unless it is satisfied that—

(a) the applicant has a sufficient interest in the matter which is the subject of the application, or

(b) the applicant—

(i) is a body or organisation (other than a State authority, a public authority or a governmental body or agency) the aims or objectives of which relate to the promotion of environmental protection, and

(ii) has, during the period of 12 months preceding the date of the application, pursued those aims or objectives.

(4) A sufficient interest for the purpose of *subsection (3)* is not limited to an interest in land or other financial interest.

(5) The High Court, in determining either an application for leave for judicial review under this section, or an application for judicial review on foot of such leave under this section, shall act as expeditiously as possible consistent with the administration of justice.

(6) The provisions of section 50B of the Act of 2000 shall, with all necessary modifications, apply to the questioning of a decision, act or omission referred to in this section which has been subjected to an EIA or an AA or both an EIA and an AA.

(7) Subject to *subsection (9)*, an application for leave to apply for judicial review under the Order in respect of an act referred to in *subsection (2)(a)* shall be made within a period of 8 weeks beginning on the making or doing of the decision, act or omission by the Minister.

(8) Subject to *subsection (9)*, an application for leave to apply for judicial review under the Order in respect of a licence referred to in *subsection (2)(b)* shall be made within a period of 8 weeks beginning on the date on which the licensing authority grants the licence under *section 151 (1)*.

(9) The High Court may extend the period provided for in *subsection (7)* or *(8)* within which an application for leave referred to in that subsection may be made but shall only do so if it is satisfied that—

(a) there is good and sufficient reason for doing so,

(b) the circumstances that resulted in the failure to make the application for leave within the period so provided were outside the control of the applicant for the extension.

(10) In this section—

"Order" means Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986);

"State authority, a public authority or governmental body or agency" means—

(a) a Minister of the Government (or Minister of State);

(b) the Commissioners;

(c) a local authority;

(d) the Health Service Executive;

(e) a person—

(i) established by or under an enactment (other than the Act of 2014) but excluding any person which is an existing company,

(ii) established by any scheme administered by the Government, or

(iii) established under the Act of 2014 or an enactment repealed by that Act, pursuant to powers conferred by or under another enactment, and financed wholly or partly, whether directly or indirectly, by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or by subscription for shares held by or on behalf of a Minister of the Government;

(f) a company, a majority of the shares in which are held by or on behalf of a Minister of the Government.

Chapter 7

Works carried out at registered monument, etc.

Works carried out at registered monument, etc.

42. (1) Subject to *subsection (2)*, any works which are carried out, or proposed to be carried out, at, on, in, under, to, or within the immediate surroundings of, any site shown on a relevant map as a registered monument shall—

(a) for the purposes of any provisions of this Act requiring that any thing be done under and in accordance with a licence or after the giving of a notice under this Act, and

(b) for the purposes of any proceedings,

be taken to have been carried out, or proposed to be carried out, at, on, in, under, to, or within the immediate surroundings of, as the case may be, that monument unless the contrary is shown.

(2) Where a specific notice is given in respect of a registered monument subsequent to a general notice being made available for inspection by members of the public in respect of that monument (and regardless of how many monuments the general notice relates to), the reference to "relevant map" in *subsection (1)* shall not include the relevant map contained in or accompanying the general notice to the extent that that relevant map relates to that monument.

(3) Any works which are carried out, or proposed to be carried out, at, on, in, under, to, or within the immediate surroundings of, any site shown on a map contained in or accompanying a *section 22* consultation notice, *section 23* consultation notice, or draft general notice, shall—

(a) for the purposes of any provisions of this Act requiring that any thing be done under and in accordance with a licence or after the giving of a notice under this Act, and

(b) for the purposes of any proceedings,

be taken to have been carried out, or proposed to be carried out, at, on, in, under, to, or within the immediate surroundings of, as the case may be, the potential Register action monument concerned unless the contrary is shown.

(4) In this section, "potential Register action monument" means—

(a) a potential Register action monument (*section 22*) to which special protection applies pursuant to *section 22 (3)*, or

(b) a potential Register action monument (*section 23*) to which general protection applies pursuant to *section 23 (3)*.

Chapter 8

Provisions applicable to monuments to which general or special protection applies

Restriction on export of *Chapter 8* monument

43. (1) Subject to *subsection (2)*, a person shall not export, or direct or authorise the export of, a *Chapter 8* monument other than under and in accordance with a licence.

(2) *Subsection (1)* shall not apply where—

(a) the export is done under and in accordance with a licence which has been granted under section 50 of the Act of 1997, and

(b) the Minister has approved the terms and conditions of such licence in so far as they relate to the export of the *Chapter 8* monument the subject of the licence.

Protection of removed part of *Chapter 8* monument

44. (1) Subject to *subsections (2)* to *(4)*, where a part of a *Chapter 8* monument is removed from the monument, the same general protection or special protection that applied to the monument (including any change in such protection subsequent to the removal of the part) shall also apply to that part, and the other provisions of this Act shall, with all necessary modifications, be construed accordingly.

(2) *Subsection (1)* shall cease to apply to a part of a *Chapter 8* monument if the monument ceases to be a *Chapter 8* monument.

(3) The Minister may, by notice published in *Iris Oifigiúil*, declare that *subsection (1)* shall not apply to a *Chapter 8* monument specified in the notice.

(4) *Subsection (1)* shall not apply to a part of a *Chapter 8* monument which has been removed under and in accordance with a licence if it is stated in the licence that that subsection shall not apply to that part.

Application of the Local Government (Sanitary Services) Act 1964 to monument

45. (1) In this section—

"relevant Act" means the Local Government (Sanitary Services) Act 1964 ;

"sanitary authority" means a sanitary authority for the purposes of the Local Government (Sanitary Services) Acts 1878 to 2001.

(2) As soon as is practicable after serving or proposing to serve a notice under section 3(1) of the relevant Act in respect of a *Chapter 8* monument, a sanitary authority shall inform the Minister of the particulars of the notice.

(3) A sanitary authority which under section 3(2) of the relevant Act carries out work at, on or in relation to a *Chapter 8* monument shall—

(a) in so far as is practicable, protect the monument, or

(b) if it is not practicable to protect the monument, make (or provide for the making of) an appropriate record of it,

in so far as such protection or the making of such record, as the case may be, is not likely to cause a danger to any person or property.

(4) As soon as is practicable after carrying out works under section 3(2) of the relevant Act at, on or in relation to a *Chapter 8* monument, a sanitary authority shall inform the Minister in writing of the works which have been carried out.

(5) The provisions of this section are in addition to, and not in substitution for, any other provisions of this Act.

Registration as burden affecting registered land and related matters

46. (1) The fact that the particulars of a monument have been entered in the Register affecting an interest in land which is registered land within the meaning of the Act of 1964 shall be registrable as a burden affecting such land and Tailte Éireann, on application being made to it in that regard by the Minister, shall comply with the application.

(2) Nothing in this section shall be construed as—

(a) requiring particulars of a monument to be registered under the Act of 1964,

(b) restricting the application of any provision of this Act to a monument the particulars of which are not registered under the Act of 1964, or

(c) without prejudice to the generality of *paragraphs (a)* and *(b)*, enabling a person to claim, in any proceedings, that he or she was not on notice, whether under this Act or otherwise, of an entry in the Register in respect of a monument the particulars of which have not been registered under the Act of 1964.

Transfer by public authority or local authority of registered monument

47. (1) In this section, "authority" means—

(a) a public authority, or

(b) a local authority.

(2) Subject to *subsection (3)*, an authority shall not dispose of, convey, assign or otherwise transfer (whether or not for valuable consideration), its ownership of, or other interest (whether freehold or leasehold) in, a registered monument to a person other than the Minister without consulting the Minister.

(3) For the purposes of the consultation referred to in *subsection (2)*, an authority—

(a) shall give the Minister a notice in the specified form of what action it proposes to take (in this section referred to as the "proposed action") that falls within that subsection,

(b) shall not take the proposed action (or any like action) until 90 days after giving that notice unless the Minister has, before the expiration of that period, given the authority a notice in writing stating that he or she has no objection to the authority taking that action,

(c) shall publish a notice in a national newspaper of the proposed action stating that persons may make representations in writing on that action, during the period of 45 days beginning on the date of the publication of the notice in the national newspaper, at the address or e-mail address (if any) specified in the notice, and

(d) shall have regard to such representations (if any) in deciding whether or not to take the proposed action (or any like action).

(4) The Minister may, in the course of consultation under *subsection (2)* with an authority in respect of a registered monument, request the authority to give the Minister the opportunity to acquire the monument on such terms as are agreed between the Minister and the authority, and the authority shall comply with that request.

(5) An authority may, at its discretion, in addition to publishing, in relation to the proposed action, a notice in a national newspaper pursuant to *subsection (3)(c)*, also publish that notice in one or more than one newspaper (not being a national newspaper) circulating generally in the geographical area in which the registered monument the subject of the proposed action is situated, whether in hard copy or electronic form, or both.

Chapter 9

Transitional provisions relating to Register of Historic Monuments and record of monuments and places, etc.

Transitional provisions applicable to Register of Historic Monuments and record of monuments and places

48. (1) In this section—

"record of monuments and places" means the record established and maintained under section 12 of the Act of 1994;

"Register of Historic Monuments" means the Register of Historic Monuments established and maintained under section 5 of the Act of 1987.

(2) Subject to *subsection (4)*, the relevant enactments shall apply to the Register of Historic Monuments and the record of monuments and places.

(3) The Minister may, by notice published in *Iris Oifigiúil*, specify a date (in this section referred to as the "relevant date") on and from which the Register supersedes the Register of Historic Monuments and the record of monuments and places in respect of a geographical area of the State specified in the notice for the purposes of the relevant date.

(4) Where the Minister publishes a notice in *Iris Oifigiúil* under *subsection (3)*, the relevant enactments shall cease to apply, on and from the relevant date, to the Register of Historic Monuments and the record of monuments and places in so far as the Register of Historic Monuments and the record of monuments and places relate to the geographical area specified in the notice for the purposes of the relevant date.

(5) Nothing in this section shall operate to prevent any provision of this Act having effect in relation to a prescribed monument notwithstanding that a relevant date has not been specified in respect of the geographical area of the State in which the monument is situated.

Transitional provisions applicable to certain national monuments

49. (1) In this section, " *section 49* monument" means a national monument within the meaning of section 2 of the Act of 1930 which is subject to a preservation order made under section 8 of that Act or is otherwise such national monument to which section 14 of that Act applies.

(2) The relevant enactments shall apply to a *section 49* monument until—

(a) *section 19* has been complied with in respect of the first particulars entered in the Register in respect of the monument, or

(b) the relevant date for the geographical area in which the monument is situated,

whichever first occurs.

(3) *Section 22* or *23* , as appropriate, shall not apply to a *section 49* monument except for a potential Register action (*section 22*) or potential Register action (*section 23*), as appropriate, arising after the *section 49* monument first becomes a registered monument.

Transitional provisions applicable to restricted areas

50. (1) In this section, "restricted area" means a restricted area within the meaning of section 1 of the Act of 1987.

(2) The relevant enactments shall apply to a restricted area until—

(a) *section 19* has been complied with in respect of the first particulars entered in the Register in respect of the restricted area, or

(b) the relevant date for the geographical area in which the restricted area is situated,

whichever first occurs.

(3) *Section 22* or *23* , as appropriate, shall not apply to a restricted area except for a potential Register action (*section 22*) or potential Register action (*section 23*), as appropriate, arising after the restricted area first becomes a registered monument.

Chapter 10

Acquisition of registered monument

Acquisition of registered monument by Minister or local authority

51. (1) (a) Subject to *paragraph (b)*, the Minister may, after consultation with the Commissioners, acquire (whether or not for valuable consideration), for the purposes of this Act, a registered monument, by agreement or compulsorily, where he or she is of the opinion that the monument is suitable to be a national monument.

(b) The Minister shall not exercise his or her power under *paragraph (a)* to acquire a registered monument unless the Minister is of the opinion that the nature of the acquisition is such that he or she may satisfactorily perform his or her functions under *Chapter 16* in respect of that monument.

(2) (a) Subject to *paragraph (b)*, a local authority may, with the consent of the Minister, acquire (whether or not for valuable consideration), for the purposes of this Act, a registered monument, by agreement or compulsorily, where it is of the opinion that the monument is suitable to be a nationalmonument.

(b) The Minister shall not give a consent referred to in *paragraph (a)* to a local authority in respect of the acquisition of a registered monument unless the Minister is of the opinion that the nature of the acquisition is such that the local authority will be able to satisfactorily perform its functions under *Chapter 16* in respect of that monument.

(3) (a) The acquisition by the Minister or a local authority of a registered monument by agreement under this section may be effected by purchase, lease, exchange or the acceptance of a gift, bequest or devise to the Minister or local authority, as the case may be.

(b) The definition of "owner" in *section 2* shall not be construed to limit the power of the Minister or a local authority under *paragraph (a)* to acquire a registered monument.

(4) The Minister or a local authority may decline to acquire a registered monument under this section where the monument is the subject of a gift, bequest or devise to the Minister or local authority, as the case may be.

(5) (a) The Minister shall comply with the provisions of *Part 2* of *Schedule 2* in respect of the compulsory acquisition by the Minister of a registered monument under this section.

(b) A local authority and the Minister shall comply with the provisions of *Part 3* of *Schedule 2* in respect of the compulsory acquisition of a registered monument by the local authority under this section.

(6) Where the Minister or a local authority has acquired or is proposing to acquire, whether by agreement or compulsorily, a registered monument, the Minister or local authority, as the case may be, may also acquire, whether by agreement or compulsorily, such area (including any estate, right, title or interest in or over that area) surrounding the monument as the Minister or local authority considers necessary in order to perform the Minister's or local authority's functions under *Chapter 16*.

(7) Stamp duty shall not be chargeable on any instrument to the extent that it effects the acquisition of a registered monument by the Minister or a local authority pursuant to the Minister's or local authority's, as the case may be, powers under this section.

(8) Nothing in this section shall operate to limit the powers of the Minister or local authority under any other enactment to acquire land.

Chapter 11

Transitional provisions applicable to registered monuments in ownership of Minister or local authority

Interpretation - *Chapter 11*

52. (1) In this Chapter—

" *section 53* monument" has the meaning assigned to it by *section 53 (1)*;

" *section 54* monument" has the meaning assigned to it by *section 54 (1)*;

" *section 55* monument" has the meaning assigned to it by *section 55 (1)*;

" *section 56* monument" has the meaning assigned to it by *section 56 (1)*;

" *section 57* monument" has the meaning assigned to it by *section 57 (1)*;

" *section 58* monument" has the meaning assigned to it by *section 58 (1)*;

" *section 59* monument" has the meaning assigned to it by *section 59 (1)*;

" *section 60* monument" has the meaning assigned to it by *section 60 (1)*.

(2) For the purposes of this Chapter, "ownership", in relation to land the subject of a lease, includes the reversionary interest of the owner to whom the land will revert when the lease expires or otherwise comes to an end.

Transitional provisions applicable to certain churches, ecclesiastical buildings or other structures

53. (1) In this section, " *section 53* monument" means a church, ecclesiastical building or structure that was, pursuant to subsection (1) of section 25 of the Act of 1869, vested in the secretary of the Commissioners to be held by such secretary, or his or her heirs or assigns, upon trust for the Commissioners, to be preserved as a national monument in accordance with that section, but does not include such a church, building or structure, as the case may be, which is not, immediately before the commencement of this section, in the ownership of a public authority or local authority (or any predecessor to a local authority whose functions, whether in whole or in part, are now performed by the local authority).

(2) The relevant enactments shall apply to a *section 53* monument until—

(a) *section 19* has been complied with in respect of the first particulars entered in the Register in respect of the monument, or

(b) the relevant date for the geographical area in which the monument is situated,

whichever first occurs.

(3) *Section 22* or *23* , as appropriate, shall not apply to a *section 53* monument except for a potential Register action (*section 22*) or potential Register action (*section 23*), as appropriate, arising after the *section 53* monument first becomes a registered monument.

Transitional provisions applicable to certain ancient monuments purchased pursuant to section 3 of Act of 1882

54. (1) In this section, "*section 54* monument" means an ancient monument to which the Act of 1882 applied and which was purchased by the Commissioners pursuant to section 3 of that Act, but does not include such an ancient monument which is not, immediately before the commencement of this section, in the ownership of a public authority or local authority (or any predecessor to a local authority whose functions, whether in whole or in part, are now performed by the local authority).

(2) The relevant enactments shall apply to a *section 54* monument until—

(a) *section 19* has been complied with in respect of the first particulars entered in the Register in respect of the monument, or

(b) the relevant date for the geographical area in which the monument is situated,

whichever first occurs.

(3) *Section 22* or *23* , as appropriate, shall not apply to a *section 54* monument except for a potential Register action (*section 22*) or potential Register action (*section 23*), as appropriate, arising after the *section 54* monument first becomes a registered monument.

Transitional provisions applicable to certain ancient monuments gifted, etc., to Commissioners

55. (1) In this section, "*section 55* monument" means an ancient monument to which the Act of 1882 applied and in respect of which—

(a) any estate or interest in the monument was by deed or will given, devised or bequeathed to the Commissioners pursuant to section 4 of that Act, and

(b) such gift, devise or bequeath was accepted by the Commissioners pursuant to section 4 of that Act,

but does not include such a monument which is not, immediately before the commencement of this section, in the ownership of a public authority or local authority (or any predecessor to a local authority whose functions, whether in whole or in part, are now performed by the local authority).

(2) The relevant enactments shall apply to a *section 55* monument until—

(a) *section 19* has been complied with in respect of the first particulars entered in the Register in respect of the monument, or

(b) the relevant date for the geographical area in which the monument is situated,

whichever first occurs.

(3) *Section 22* or *23* , as appropriate, shall not apply to a *section 55* monument except for a potential Register action (*section 22*) or potential Register action (*section 23*), as appropriate, arising after the *section 55* monument first becomes a registered monument.

Transitional provisions applicable to certain ancient monuments vested in the Commissioners, etc.

56. (1) In this section—

"relevant monument" means—

(a) an ancient monument within the meaning of section 14 of the Act of 1903 as that section was in force immediately before being amended by sections 4 and 27 of the Act of 1930, or

(b) a national monument within the meaning of section 14 of the Act of 1903 as that section was in force after being amended by sections 4 and 27 of the Act of 1930;

"*section 56* monument" means a relevant monument that was vested in the Commissioners pursuant to an order made under subsection (1) of section 14 of the Act of 1903, but does not include such a monument which is not, immediately before the commencement of this section, in the ownership of a public authority or local authority (or any predecessor to a local authority whose functions, whether in whole or in part, are now performed by the local authority).

(2) The relevant enactments shall apply to a *section 56* monument until—

(a) *section 19* has been complied with in respect of the first particulars entered in the Register in respect of the monument, or

(b) the relevant date for the geographical area in which the monument is situated,

whichever first occurs.

(3) *Section 22* or *23* , as appropriate, shall not apply to a *section 56* monument except for a potential Register action (*section 22*) or potential Register action (*section 23*), as appropriate, arising after the *section 56* monument first becomes a registered monument.

Transitional provisions applicable to certain ancient monuments vested in council of county

57. (1) In this section—

"relevant monument" means—

(a) an ancient monument within the meaning of section 14 of the Act of 1903 as that section was in force immediately before being amended by sections 4 and 27 of the Act of 1930, or

(b) a national monument within the meaning of section 14 of the Act of 1903 as that section was in force after being amended by sections 4 and 27 of the Act of 1930;

"*section 57* monument" means a relevant monument that was vested in the council of the county in which the monument is situated pursuant to an order made under subsection (3) of section 14 of the Act of 1903, but does not include such a monument which is not, immediately before the commencement of this section, in the ownership of a public authority or local authority (or any predecessor to a local authority whose functions, whether in whole or in part, are now performed by the local authority).

(2) The relevant enactments shall apply to a *section 57* monument until—

(a) *section 19* has been complied with in respect of the first particulars entered in the Register in respect of the monument, or

(b) the relevant date for the geographical area in which the monument is situated,

whichever first occurs.

(3) *Section 22* or *23* , as appropriate, shall not apply to a *section 57* monument except for a potential Register action (*section 22*) or potential Register action (*section 23*), as appropriate, arising after the *section 57* monument first becomes a registered monument.

Transitional provisions applicable to certain national monuments acquired by Commissioners, etc.

58. (1) In this section, "*section 58* monument" means a national monument within the meaning of the Act of 1930 which was acquired by the Commissioners pursuant to section 11 of the Act of 1930, section 6 of the Act of 1987 or section 11 of the Act of 1994, but does not include such a monument which is not, immediately before the commencement of this section, in the ownership of a public authority or local authority (or any predecessor to a local authority whose functions, whether in whole or in part, are now performed by the local authority).

(2) The relevant enactments shall apply to a *section 58* monument until—

(a) *section 19* has been complied with in respect of the first particulars entered in the Register in respect of the monument, or

(b) the relevant date for the geographical area in which the monument is situated,

whichever first occurs.

(3) *Section 22* or *23* , as appropriate, shall not apply to a *section 58* monument except for a potential Register action (*section 22*) or potential Register action (*section 23*), as appropriate, arising after the *section 58* monument first becomes a registered monument.

Transitional provisions applicable to certain national monuments gifted, etc., to Commissioners, etc.

59. (1) In this section, "*section 59* monument" means a national monument within the meaning of the Act of 1930 and in respect of which—

(a) any estate or interest in the monument was by deed or will conveyed, devised or bequeathed to the Commissioners or a Minister of the Government (or Minister of State) or local authority pursuant to section 10 of the Act of 1930, and

(b) such conveyance, devise or bequest was accepted by the Commissioners or the Minister of the Government (or Minister of State) or local authority (or any predecessor to a local authority whose functions, whether in whole or in part, are now performed by a local authority) concerned, as the case may be, pursuant to section 10 of the Act of 1930,

but does not include such monument which is not, immediately before the commencement of this section, in the ownership of a public authority or local authority (or any predecessor to a local authority whose functions, whether in whole or in part, are now performed by the local authority).

(2) The relevant enactments shall apply to a *section 59* monument until—

(a) *section 19* has been complied with in respect of the first particulars entered in the Register in respect of the monument, or

(b) the relevant date for the geographical area in which the monument is situated,

whichever first occurs.

(3) *Section 22* or *23* , as appropriate, shall not apply to a *section 59* monument except for a potential Register action (*section 22*) or potential Register action (*section 23*), as appropriate, arising after the *section 59* monument first becomes a registered monument.

Transitional provisions applicable to national monuments conveyed or devised by Commissioners, etc., to local authority

60. (1) In this section, "*section 60* monument" means a national monument within the meaning of section 2 of the Act of 1930 which has been conveyed or devised by the Commissioners or a Minister of the Government (or Minister of State) to a local authority, but does not include such a monument which is not, immediately before the commencement of this section, in the ownership of a public authority or local authority (or any predecessor to a local authority whose functions, whether in whole or in part, are now performed by the local authority).

(2) The relevant enactments shall apply to a *section 60* monument until—

(a) *section 19* has been complied with in respect of the first particulars entered in the Register in respect of the monument, or

(b) the relevant date for the geographical area in which the monument is situated,

whichever first occurs.

(3) *Section 22* or *23* , as appropriate, shall not apply to a *section 60* monument except for a potential Register action (*section 22*) or potential Register action (*section 23*), as appropriate, arising after the *section 60* monument first becomes a registered monument.

Provisions supplementary to *sections 53* to *60*

61. (1) In this section—

"applicable enactments", in relation to a *section 53* to *60* monument, means—

(a) the enactments repealed by *section 7* as those enactments were in force at any time before that monument first becomes a registered monument, and

(b) the Ancient Monuments Protection Acts as those Acts were in force at any time before 26 February 1930;

" *section 53* to *60* monument" means a *section 53* monument, *section 54* monument, *section 55* monument, *section 56* monument, *section 57* monument, *section 58* monument, *section 59* monument or *section 60* monument.

(2) Subject to *subsection (3)*, when a *section 53* to *60* monument first becomes a registered monument, the land which comprises (whether in whole or in part) the registered monument shall, by operation of this section, be vested in fee simple in—

(a) the Minister if the monument is, immediately before it first becomes a registered monument, in the ownership of the Minister or another public authority, or

(b) the local authority if the monument is, immediately before it first becomes a registered monument, in the ownership of the local authority (or a predecessor to that local authority whose functions, whether in whole or in part, are now performed by the local authority),

and, in either case, *section 24 (1)* shall apply to the monument accordingly.

(3) Nothing in *subsection (2)* shall operate to prejudice—

(a) subject to *subsection (4)*, any estate, right, title or interest in or over land existing immediately before a *section 53* to *60* monument first becomes a registered monument other than such an estate, right, title or interest—

(i) vested in a public authority or local authority by the applicable enactments, or

(ii) vested in a public authority under an order made under the Ministers and Secretaries Acts 1924 to 2017 for the purposes of transferring functions under the applicable enactments,

(b) any encumbrance on land existing immediately before a *section 53* to *60* monument first becomes a registered monument other than such an encumbrance wholly in favour of a public authority or local authority, or

(c) a conveyance or devise referred to in the definition of " *section 60* monument" in *section 60 (1)*.

(4) The reference in *subsection (3)* to "other than such an estate, right, title or interest" shall not include an estate, right, title or interest arising from a lease made under section 17 of the Act of 1954 where such lease has not expired or otherwise come to an end before the repeal of that Act by *section 7* .

Chapter 12

Transfer of ownership of certain national monuments

Minister, etc., may transfer ownership of national monuments owned by Minister, etc.

62. (1) The Minister may, after consultation with the Commissioners, convey, assign or otherwise transfer (whether or not for valuable consideration) to a person his or her estate, right, title or interest in or over a national monument (M) where he or she is of the opinion that the transfer—

(a) is compatible with the proper protection and management of the monument, or

(b) is in the public interest.

(2) A local authority may, with the consent of the Minister, convey, assign or otherwise transfer (whether or not for valuable consideration) to a person its estate, right, title or interest in or over a national monument (LA) where it is of the opinion that the conveyance, assignment or transfer—

(a) is compatible with the proper protection and management of the monument, or

(b) is in the public interest.

Chapter 13

Burial grounds

Definitions - *Chapter 13*

63. In this Chapter—

"applicable enactments" means—

(a) section 26(1) or (2) of the Act of 1869 as that section was in force at any time before the commencement of this Chapter, and

(b) section 161 of the Act of 1878 as that section was in force at any time before the commencement of this Chapter;

"burial ground appurtenance", in relation to a burial ground, means—

(a) any church, building or structure in, or forming part of, the burial ground,

(b) any ruined or disused church or ecclesiastical structure, or the remains thereof, in, or forming part of, the burial ground, and

(c) any headstone, tomb, vault or memorial situated in the burial ground;

"relevant burial ground" means—

(a) a *section 64* burial ground, or

(b) a *section 65* burial ground;

"Report of the Church Temporalities Commission" means the Report entitled "Report of the Commissioners of Church Temporalities in Ireland for the period 1869 - 80" as presented to both Houses of Parliament by royal command and published by the Stationery Office at Dublin in 1880, and a reference to any numbered appendix to the Report of the Church Temporalities Commission means any appendix, published in 1881, and so numbered as appearing in, or attached to, such report;

" *section 53* to *60* monument" has the meaning assigned to it by *section 61 (1)*;

" *section 64* burial ground" has the meaning assigned to it by *section 64 (1)*;

" *section 65* burial ground" has the meaning assigned to it by *section 65 (1)*.

Transitional provisions applicable to certain burial grounds originally vested in guardians of poor law union or burial board

64. (1) In this section, " *section 64* burial ground" means a burial ground—

(a) situated in the State, and

(b) that was vested in—

(i) the guardians of a poor law union pursuant to section 26(1) or (2) of the Act of 1869, or

(ii) the burial board of a sanitary district pursuant to section 161 of the Act of 1878,

and includes any burial ground appurtenance.

(2) *Subsection (3)* applies to a *section 64* burial ground which is not, immediately before the commencement of this Chapter—

(a) a *section 53* to *60* monument, or

(b) vested in fee simple in the Minister.

(3) Subject to *subsection (4)*, where a *section 64* burial ground to which this subsection applies first becomes a registered monument, the land which comprises the registered monument shall, by operation of this section, vest in fee simple in the local authority in whose functional area the burial ground is situated, and *section 24 (1)* shall apply to the burial ground accordingly.

(4) Nothing in *subsection (3)* shall operate to prejudice—

(a) any estate, right, title or interest in or over land existing immediately before the commencement of this Chapter other than such an estate, right, title or interest—

(i) vested in a public authority or local authority by the applicable enactments, or

(ii) vested in a public authority under an order made under the Ministers and Secretaries Acts 1924 to 2017 for the purposes of transferring functions under the applicable enactments,

or

(b) any encumbrance on land existing immediately before the commencement of this Chapter other than such an encumbrance wholly in favour of a public authority or local authority.

Minister's power to vest certain burial grounds in Minister or local authority

65. (1) In this section, "*section 65* burial ground" means a burial ground—

(a) situated in the State, and

(b) referred to, or entered, in Appendix No. 9 to the Report of the Church Temporalities Commission,

and includes any burial ground appurtenance.

(2) *Subsection (3)* applies to a *section 65* burial ground—

(a) which is not, immediately before the commencement of this Chapter, a *section 53* to *60* monument, or

(b) in respect of which the fee simple has not, at any time before the commencement of this Chapter, been vested in a person at a direction given pursuant to section 26(2) of the Act of 1869.

(3) Subject to *subsection (4)*, the Minister may by order—

(a) vest in fee simple the land which comprises a *section 65* burial ground in the Minister on the date specified in the order for the purpose and without any conveyance or assignment, or

(b) with the consent of the local authority in whose functional area a *section 65* burial ground is situated, vest in fee simple the land which comprises the burial ground in that local authority on the date specified in the order for the purpose and without any conveyance or assignment,

and, in either case if the burial ground is a registered monument, *section 24 (1)* shall apply to the burial ground accordingly.

(4) Nothing in an order under *subsection (3)* shall operate to prejudice—

(a) any estate, right, title or interest in or over land existing immediately before the order takes effect other than such an estate, right, title or interest—

(i) vested in a public authority by a provision of the Act of 1869 (other than section 25 or 26 of that Act),

(ii) vested in the Irish Land Commission by the Irish Church Act Amendment Act 1881 ,

(iii) vested in the Minister, within the meaning of section 1 of the Irish Land Commission (Dissolution) Act 1992 , by that Act, or

(iv) vested in a public authority under an order made under the Ministers and Secretaries Acts 1924 to 2017 for the purposes of transferring functions under an Act referred to in *subparagraph (i)*, *(ii)* or *(iii)*,

or

(b) any encumbrance on land existing immediately before the order takes effect other than such an encumbrance wholly in favour of a public authority.

Provisions supplementary to *sections 64* and *65*

66. (1) Where—

(a) the fee simple in a relevant burial ground is vested in the Minister or local authority, and

(b) the burial ground is a registered monument,

then, for the purposes of this Act, the burial ground shall be a registered monument in the ownership of the Minister or local authority, as the case may be, and the other provisions of this Act relating to registered monuments in the ownership of the Minister or local authority, as the case may be, shall apply accordingly.

(2) A power under subsection (2) of section 26 of the Act of 1869 shall not be exercised in respect of a relevant burial ground which is a registered monument except with the consent of the Minister.

Chapter 14

Guardianship of certain registered monuments

Guardianship of certain registered monuments by Minister or local authority

67. (1) The Minister may, after consultation with the Commissioners, by order—

(a) appoint himself or herself as the guardian of a registered monument to which special protection applies pursuant to *section 20 (1)* or *24 (1)*, or

(b) at the request in writing of, or with the consent of, a local authority, appoint the local authority as the guardian of a registered monument to which special protection applies pursuant to *section 20 (1)* or *24 (1)* and which is situated within its functional area.

(2) A monument guardianship order shall include a map defining the area the subject of that order.

(3) The Minister may—

(a) by a further monument guardianship order, extend or reduce the area of the guardianship monument, or

(b) by order, revoke a monument guardianship order.

(4) The Minister shall give notice in writing of the making, amendment or revocation of a monument guardianship order to the owner (if any) of the land on which the guardianship monument is situated as soon as is practicable after the making, amendment or revocation, as the case may be, of the order.

(5) Subject to *subsection (6)*, where the Minister proposes to make or revoke a monument guardianship order, he or she shall give notice in writing of the proposal to the owner (if any) of the land on which the registered monument or guardianship monument concerned, as the case may be, is situated and, before deciding whether or not to proceed with the proposal, consider any submissions made by the owner within the period specified in the notice for receiving such submissions.

(6) The Minister may make a monument guardianship order without complying with *subsection (5)* if he or she is of the opinion that the registered monument concerned is in immediate danger, whether through decay, deterioration or otherwise.

(7) A decision by the Minister not to proceed with a proposal referred to in *subsection (5)* shall not of itself operate to prevent a future decision to proceed with such proposal or a substantially similar proposal.

Chapter 15

Transitional provisions applicable to guardianship of registered monuments

Definition - *Chapter 15*

68. In this Chapter, "guardianship monument", in relation to a monument guardianship order, means the registered monument the subject of the order.

Transitional provisions applicable to certain national monuments subject to order under section 9(2) of Act of 1930

69. (1) In this section—

"*section 69* monument", in relation to a *section 69* order, means the national monument that is the subject of that order immediately before the commencement of this section;

"*section 69* order" means an order under section 9(2) of the Act of 1930 that is in force immediately before the commencement of this section.

(2) On the commencement of this section—

(a) a *section 69* order shall be deemed to be a monument guardianship order with the Minister appointed as the guardian of the *section 69* monument, and

(b) the *section 69* monument shall be deemed to be both a registered monument and the guardianship monument,

and the other provisions of this Act (including *sections 24 (1)* and *67 (3)*) shall apply accordingly.

Transitional provisions applicable to certain ancient monuments subject to order under section 15 of Act of 1925

70. (1) In this section—

"*section 70* monument", in relation to a *section 70* order, means the ancient monument that is the subject of that order immediately before the commencement of this section;

"*section 70* order" means an order under section 15 of the Act of 1925 that is in force immediately before the commencement of this section.

(2) On the commencement of this section—

(a) a *section 70* order shall be deemed to be a monument guardianship order with the Minister appointed as the guardian of the *section 70* monument, and

(b) the *section 70* monument shall be deemed to be both a registered monument and the guardianship monument,

and the other provisions of this Act (including *sections 24 (1)* and *67 (3)*) shall apply accordingly.

Transitional provisions applicable to certain national monuments subject to certain deeds

71. (1) In this section—

"*section 71* deed" means a deed—

(a) made under section 5 of the Act of 1930, or

(b) referred to in section 6 of the Act of 1930,

that is in force immediately before the commencement of this section;

"*section 71* deed (local authority)" means a *section 71* deed which appoints a local authority as the guardian of the *section 71* monument;

"*section 71* monument", in relation to a *section 71* deed, means the national monument that is the subject of that deed immediately before the commencement of this section, and includes, in the case of a national monument referred to in section 6 of the Act of 1930, any such monument which, before 26 February 1930, was an ancient monument to which the Ancient Monuments Protection Acts applied.

(2) Subject to *section 72* , on the commencement of this section—

(a) a *section 71* deed (other than a *section 71* deed (local authority)) shall be deemed to be a monument guardianship order with the Minister appointed as the guardian of the *section 71* monument, and

(b) the *section 71* monument shall be deemed to be both a registered monument and the guardianship monument,

and the other provisions of this Act (including *sections 24 (1)* and *67 (3)*) shall apply accordingly.

(3) Subject to *section 72* , on the commencement of this section—

(a) a *section 71* deed (local authority) shall be deemed to be a monument guardianship order with the local authority in whose functional area the *section 71* monument is situatedappointed as the guardian of the monument, and

(b) the *section 71* monument shall be deemed to be both a registered monument and the guardianship monument,

and the other provisions of this Act (including *sections 24 (1)* and *67 (3)*) shall apply accordingly.

Provisions supplementary to *section 71*

72. (1) Notwithstanding *section 71* and the repeal of the Act of 1930 effected by *section 7* but subject to *subsection (2)*, the following provisions shall apply:

(a) a person who would have been entitled—

(i) under paragraph (c) of subsection (3) of section 5 of the Act of 1930 to terminate a deed made under that section 5, or

(ii) under paragraph (c) of section 6 of the Act of 1930 to terminate a deed referred to in that section 6,

may, by notice in writing given to the Minister, request the Minister to revoke the monument guardianship order concerned referred to in *section 71 (2)(a)* or *(3)(a)* from a date specified in the notice, being a date not less than 2 months after the Minister is given the notice and the Minister shall comply with the request;

(b) any conditions or restrictions specified in a *section 71* deed (within the meaning of *section 71 (1)*) shall continue to have effect and shall bind the Minister or local authority concerned, including in the performance of any functions under this Act relating to nationalmonuments;

(c) the Minister or local authority concerned shall not, in respect of a registered monument the subject of a deed referred to in section 6 of the Act of 1930, perform any function under this Act so as to allow or promote public access to the monument other than with the consent of the owner of the monument given by that deed or otherwise.

(2) (a) *Subsection (1)* shall not be construed to prevent the Minister from making or revoking a monument guardianship order in respect of a *section 71* monument (within the meaning of *section 71*).

(b) Where the Minister makes a monument guardianship order in respect of a *section 71* monument (within the meaning of *section 71*), *paragraphs (b)* and *(c)* of *subsection (1)* shall cease to bind the Minister or local authority concerned in respect of that monument unless the Minister otherwise specifies in the order.

Chapter 16

Provisions applicable to registered monuments in ownership or guardianship of Minister or local authority (national monuments)

Application of *Chapter 16*

73. (1) Subject to *subsection (2)*, this Chapter applies to a registered monument in the ownership or guardianship of the Minister or a local authority pursuant to the operation of a provision of this Act.

(2) The Minister may, after consultation with the Commissioners, by order, specify that, on and from a date specified in the order, this Chapter applies to a registered monument specified in the order in the ownership of the Minister otherwise than pursuant to the operation of a provision of this Act and, accordingly, this Chapter shall apply to that monument on and from that date.

(3) The Minister may, after consultation with a local authority, by order, specify that, on and from a date specified in the order, this Chapter applies to a registered monument specified in the order in the ownership of the local authority otherwise than pursuant to a provision of this Act and, accordingly, this Chapter shall apply to that monument on and from that date.

Definitions - *Chapter 16*

74. In this Chapter—

"charges" includes fees;

"nationalmonument" means a monument to which this Chapter applies by virtue of *section 73* ;

"national monument (LA)", in relation to a local authority, means a national monument in the ownership or guardianship of that authority;

"national monument (M)", in relation to the Minister, means a national monument in the ownership or guardianship of the Minister;

"ownership", in relation to a national monument, includes any estate, right, title or interest held by the Minister or a local authority in the monument or in or over the land on which the monument is situated, or both, as appropriate, pursuant to the exercise by the Minister or authority, as the case may be, of the Minister's or authority's power under *section 51 (3)*;

"relevant authority", in relation to a national monument, means (other than in *Chapter 18*) whichever of, subject to *section 78 (3)*, the Minister or a local authority has the ownership or guardianship of that monument.

Maintenance and presentation of national monuments

75. (1) Subject to *subsection (2)*, it shall be the duty of the relevant authority, in so far as may be practicable, to maintain the archaeological, architectural, historic and cultural interest of a national monument.

(2) *Subsection (1)* shall not prevent or restrict the doing of any act which results in the loss, whether in whole or part, of the interest referred to in that subsection of a national monument where, in the opinion of the relevant authority—

(a) it is justified on substantial and appropriate research grounds, or

(b) it is justified on substantial public interest grounds.

(3) The relevant authority may do all or any of the following in respect of a national monument:

(a) protect the monument;

(b) subject to *subsection (4)*, present the monument to the public, including provide visitor access and facilities, subject to such conditions, restrictions, prohibitions or charges as the authority may determine regarding—

(i) entry into or onto the monument by persons generally or any particular person or class of persons, or

(ii) the conduct of persons generally or any particular person or class of persons at, in, on or in the vicinity of the monument;

(c) undertake, or cause to be undertaken, any works necessitated by or ancillary to any act or other matter which falls within *paragraph (a)* or *(b)*.

(4) In determining any conditions, restrictions, prohibitions or charges for the purposes of *paragraph (b)* of *subsection (3)*, the relevant authority may take into account any matters relating to the protection of the national monument, the safety or welfare of the public, the enjoyment by the public of the monument or the opinions (if any) of the owner of the land on which the monument is situated.

(5) Where the relevant authority is satisfied that it is necessary for the protection of a national monument, or is otherwise required on substantial public interest grounds, the relevant authority may move the monument to a site where its protection may be more effectively secured.

(6) (a) Where it is satisfied that to do so would be compatible with *subsection (1)*, the relevant authority may enter into an agreement in writing (in this subsection referred to as a "relevant agreement") with the owner of a national monument of which the relevant authority is guardian that the maintenance (or any aspect of the maintenance) of the national monument shall be undertaken by the owner or any other person.

(b) The conditions which may be contained in a relevant agreement include conditions relating to responsibility for the costs of maintenance (or any aspect of the maintenance), the duration of the agreement and whether the agreement applies to all of the national monument or any part of it.

(c) The Minister shall consult with the Commissioners before entering into a relevant agreement.

(d) A local authority shall not enter into a relevant agreement without the consent of the Minister.

(e) Where a relevant agreement is in force for the time being in respect of a national monument (M), the functions of the Commissioners under *section 80* shall stand modified appropriately.

(f) A relevant agreement shall (subject to any conditions relating to the duration of the agreement) be binding on the parties to it and their successors (including successors in title) but may be revoked by the relevant authority if it appears necessary to do so in order to ensure compliance with *subsection (1)* or is otherwise necessary in order to secure the protection of the national monument.

(g) A local authority shall exercise its power under *paragraph (f)* to revoke an agreement in respect of a national monument (LA) if directed to do so by the Minister, but the Minister shall not issue such a direction unless he or she is satisfied that it is necessary to do so in order to ensure compliance with *subsection (1)* or is otherwise necessary in order to secure the protection of the national monument.

(h) An agreement in writing entered into under section 12(2) of the Act of 1930 which is in force immediately before the commencement of this section shall, on and after such commencement, be deemed to be a relevant agreement and the other provisions of this section shall, with all necessary modifications, be construed accordingly.

(i) Nothing in this subsection shall prejudice *section 30* .

(j) This subsection is without prejudice to the entitlement of a relevant authority or the Commissioners to enter into contracts for the provision of services.

Powers of certain officers

76. (1) *Subsection (2)* applies where it appears to an authorised officer that a person, in relation to a national monument—

(a) has acted, or is acting, in contravention of any condition, restriction or prohibition made or imposed under *section 75 (3)*, or

(b) has failed to pay any charge payable under that section.

(2) (a) The authorised officer may direct the person to do any, or any combination of, the following:

(i) to comply with the condition, restriction or prohibition concerned;

(ii) to pay the charge concerned;

(iii) to provide his or her name and address to the officer;

(iv) to leave the monument or the vicinity of the monument.

(b) The person shall comply with a direction given under *paragraph (a)* to him or her.

(c) An authorised officer may request proof of identity of a person to whom he or she has given a direction under *paragraph (a)(iii)* where the officer has reasonable grounds for believing that the name or address, or both, provided pursuant to that direction is false or misleading.

(d) The person shall comply with a request made under *paragraph (c)* of him or her.

(e) In *paragraph (c)*, "proof of identity", in relation to a person, means—

(i) a driving licence,

(ii) a passport,

(iii) a student identity card from a school, recognised university, higher education institution or other education and training facility or from an equivalent school, university, institution or facility outside the State,

(iv) an age card issued by An Garda Síochána,

(v) an Irish residence permit issued by the Department of Justice,

(vi) a national identity card issued by a state other than the State, or

(vii) any other official document which includes in it a photograph of the person issued by or on behalf of the State or a state other than the State.

Grant of lease or licence in respect of national monument

77. (1) In so far as is compatible with the requirements of *section 75 (1)* and *(2)*, the Minister may grant a lease or licence (not being a licence granted under *section 151*) in respect of land comprising a national monument (M).

(2) In so far as is compatible with the requirements of *section 75 (1)* and *(2)*, a local authority may, with the consent of the Minister, grant a lease or licence (not being a licence granted under *section 151*) in respect of land comprising a national monument (LA).

Construction of functions conferred on relevant authority by this Chapter

78. (1) The performance of functions conferred on the relevant authority by this Chapter shall be subject to any provisions of this Act specifying requirements that any act or other matter be done under and in accordance with a licence, except as otherwise provided in this Act.

(2) The functions conferred on the relevant authority by this Chapter are in addition to, and not in substitution for, any functions conferred on the authority under any other enactment or otherwise.

(3) Where, in relation to a particular national monument, a question arises between the Minister and a local authority as to which of them is the relevant authority in relation to that monument, the Minister, after—

(a) having consulted with the authority and the Commissioners on the question, and

(b) having regard to—

(i) the views respectively of the authority and the Commissioners on the question, and

(ii) the nature of the estate, right, title or interest respectively held by the Minister and the authority in the monument or in or over the land on which the monument is situated, or both, as appropriate,

shall, by notice published in *Iris Oifigiúil*, decide the question and the Minister's decision shall be final.

Chapter 17

Provisions supplementary to Chapter 16

Definitions - *Chapter 17*

79. In this Chapter—

"bye-law maker" means—

(a) the Commissioners, or

(b) a local authority;

"bye-laws" means—

(a) if the bye-law makers are the Commissioners, bye-laws under *section 81 (1)*, and

(b) if the bye-law maker is a local authority, bye-laws under *section 81 (2)*;

"event" includes any gathering, meeting, market, concert, festival, ceremony, celebration or commemoration;

"vehicle" includes any form of vehicle intended or designed for use on land or water or in the air and whether or not mechanically propelled.

Functions of Commissioners in respect of national monuments (M)

80. (1) In this section—

"*Chapter 16* function" means a function conferred on the Minister under *Chapter 16*;

"conditions" includes terms;

"other operations", in relation to a national monument (M), includes the undertaking of work relating to the protection or presentation of the monument, the construction or maintenance of visitor facilities and the organising or holding of events and other activities, but does not include the day-to-day operation of the monument in so far as such operation falls within *subsection (2)*.

(2) Subject to *section 75 (6)*, a *Chapter 16* function shall, in so far as it relates to the day-to-day operation of a national monument (M), be performed by the Commissioners.

(3) (a) The Commissioners shall, in the performance by them of *Chapter 16* functions under *subsection (2)*, have regard to the Minister's policies and priorities in so far as those policies and priorities relate to such functions.

(b) The Minister shall, in setting or revising his or her policies or priorities referred to in *paragraph (a)*, consult with the Commissioners.

(4) Where a question arises between the Minister and the Commissioners as to whether the performance of a *Chapter 16* function relates to the day-to-day operation of a national monument (M), the Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, shall decide the question and the Minister's decision shall be conclusive.

(5) The Commissioners shall carry out, or cause to be carried out, such other operations in relation to a national monument (M) as may be agreed in writing between the Commissioners and the Minister with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform and in accordance with such conditions in writing as may be agreed between the Commissioners and the Minister with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform.

(6) (a) The Commissioners shall provide such further services to the Minister in connection with the performance of his or her functions under this Act as may be agreed between the Commissioners and the Minister with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform and in accordance with such conditions in writing as may be agreed between the Commissioners and the Minister with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform.

(b) Without prejudice to the generality of *paragraph (a)*, the reference in that paragraph to "services" includes services relating to the valuation of land or the acquisition or disposal of land, or both.

(7) Nothing in this section derogates from, or in any way affects, the functions of the Minister or any other person, under this Act or otherwise, in respect of the granting of licences (whether licences under this Act or any other form of licence) or leases.

(8) The performance of functions by the Commissioners under this section shall be subject to any provisions of this Act specifying requirements that an activity or works be done under and in accordance with a licence, except as otherwise provided in this Act.

(9) The Commissioners shall provide the Minister with such information as he or she may require regarding any thing done or proposed to be done by them under this section.

(10) The functions conferred on the Commissioners by this section are in addition to, and not in substitution for, any functions conferred on them under any other enactment or a rule of law.

Protection of national monuments and members of public

81. (1) The Commissioners may, with the consent of the Minister, make bye-laws for the purposes of any of the following:

(a) the protection, management or control of national monuments (M) and their amenities;

(b) the protection of the safety of members of the public at, in, on or in the vicinity of national monuments (M).

(2) The local authority concerned may, with the consent of the Minister, make bye-laws for the purposes of any of the following:

(a) the protection, management or control of national monuments (LA) and their amenities;

(b) the protection of the safety of members of the public at, in, on or in the vicinity of national monuments (LA).

(3) Bye-laws may be made generally or in respect of particular classes of national monuments or in respect of a particular monument.

(4) Every bye-law made 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 bye-law is passed by either such House within the next 21 days on which that House has sat after the bye-law is laid before it, the bye-law shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Matters on which bye-laws may be made under *section 81*

82. (1) Without prejudice to the generality of *section 81* , bye-laws may, in respect of the national monuments to which they apply, relate to all or any of the following:

(a) the regulation of any activity, including any event or any class of event, or any aspect of an event at, in, on, or in the vicinity of the monuments;

(b) the regulation of all aspects of access to the monuments, including, but not restricted to, the closure, prohibition or restriction of access, whether generally or by reference to specified classes of persons and whether on a quantitative or any other basis, and the imposition of charges for access, whether by land, water or air;

(c) the regulation of transport whether land-borne, water-borne or air-borne to, from or within the monuments, including the imposition of charges on any person providing such transport or the restriction or prohibition of such transport, whether on a quantitative or any other basis;

(d) the preservation of public order at, in, on, or in the vicinity of the monuments, including the restriction or prohibition of the possession, use, sale or consumption of any thing or the restriction or prohibition of any violent, offensive, threatening or indecent behaviour;

(e) the prevention, prohibition or removal of any nuisance or obstruction at, in, on or in the immediate vicinity of the monuments, including the subsequent disposal of any thing so removed;

(f) the control of animals, or any specified class of animals, at, in, on or in the immediate vicinity to the monuments, including restrictions or prohibitions, whether on a quantitative or any other basis, on the bringing of any specified class of animals into or onto the monuments or any requirement that an animal so brought must be kept under control by the person so bringing it or be subject to any specified form of restraint or be prevented by such person from doing any specified thing or that the person so bringing it be required to remove any waste produced by such animal;

(g) the management of traffic, whether on land, water or in the air, at, in, on or in the vicinity of the monuments, including—

(i) the control of the movement or use of any vehicles or any class of vehicles,

(ii) the restriction or prohibition of the parking, mooring or landing of vehicles or any class of vehicle,

(iii) the immobilisation, removal or impounding of any vehicle parked, moored, landed or otherwise located in contravention of any such bye-laws,

(iv) the subsequent disposal of any vehicle so immobilised, removed or impounded, whether by sale, scrapping or otherwise, or

(v) the imposition of charges on the owner, driver or other person in control of any vehicle for failure to adhere to any bye-laws made under this paragraph or payable as a condition for the release or return of any immobilised, removed or impounded vehicle;

(h) the granting by the bye-law maker of a licence authorising the doing of any thing which would otherwise be a contravention of the bye-laws, subject to such conditions as may be determined by the bye-law maker.

(2) A person shall not do a thing referred to in *subsection (1)(h)* except under and in accordance with a licence referred to in that subsection.

Provisions supplementary to *sections 81* and *82*

83. (1) Bye-laws may specify exemptions or exclusions from any requirements or prohibitions of the bye-laws.

(2) The bye-law maker shall consult the Minister for Transport, the Commissioner of An Garda Síochána and any other public authority or local authority responsible for transport or traffic management in the area in which the bye-laws, if made, would have effect.

(3) The making of bye-laws under *section 81 (2)* shall be a reserved function (within the meaning of section 2 of the Act of 2001) of the local authority concerned.

(4) The provisions of this Chapter relating to the making of bye-laws under *section 81 (2)* shall apply notwithstanding any other statutory provision regarding the making of bye-laws by local authorities.

(5) Bye-laws made under this Chapter shall have effect notwithstanding that bye-laws or regulations made under another enactment relate to, or are intended to have effect in respect of, a national monument.

(6) (a) For the purposes of ensuring compliance with a bye-law, an authorised officer may give directions to a person in control of a vehicle regarding the movement, removal or re-location of the vehicle.

(b) The person shall comply with a direction given to him or her under *paragraph (a)*.

(7) Nothing in this section shall have effect so as to prevent or restrict the exercise of any other powers, whether under an enactment or rule of law, whereby—

(a) the entry of any person or any class of persons onto or into national monuments, or

(b) the conduct of any person at, in, on or in the vicinity of a national monument,

may be prohibited, restricted, controlled or made subject to conditions.

Display of bye-laws, etc.

84. (1) (a) Subject to *paragraphs (b)* and *(c)*, bye-laws shall be displayed at the national monument to which they relate in such manner as the bye-law maker considers best adapted for giving information to the public.

(b) Where a bye-law applies to all national monuments (M), the bye-law maker does not have to comply with *paragraph (a)* if it has published the bye-law in *Iris Oifigiúil*.

(c) Where a bye-law applies to all national monuments (LA), the bye-law maker does not have to comply with *paragraph (a)* in the case of such bye-law if it has published the bye-law in *Iris Oifigiúil*.

(2) The bye-law maker shall give a copy of the bye-laws to any person applying for them on payment of such reasonable charge (if any) being a charge (not exceeding the reasonable cost of making the copy) as fixed by the bye-law maker.

(3) *Subsection (1)(a)* shall not be construed to prevent the bye-law maker from promulgating the bye-laws in such other ways (whether by publishing the bye-laws in *Iris Oifigiúil* or on the bye-law maker's website or otherwise) as the bye-law maker thinks appropriate to bring the bye-laws to the attention of the public.

(4) A document which purports to be a copy of bye-laws, and which has endorsed on it a certificate purporting to be signed by the bye-law maker, or an officer of the bye-law maker authorised in that behalf, stating that the document is a true copy of the bye-laws and that the bye-laws were in force on a specified day, shall, without proof of the signature of the bye-law maker or such officer or that such officer was in fact such officer so authorised, be evidence, until the contrary is shown, in every court and in all legal proceedings, of the bye-laws and of the fact that they were in force on that day.

Powers of authorised officers

85. (1) *Subsection (2)* applies where it appears to an authorised officer that a person, in relation to a national monument—

(a) has acted, or is acting, in contravention of any bye-law, or

(b) has failed to pay any charge payable under any bye-law.

(2) (a) The authorised officer may direct the person to do any, or any combination of, the following:

(i) to comply with the bye-law concerned;

(ii) to pay the charge concerned;

(iii) to provide his or her name and address to the officer;

(iv) to leave the monument or the vicinity of the monument.

(b) A person to whom a direction is given under *paragraph (a)* shall comply with the direction.

(c) An authorised officer may request proof of identity of a person to whom he or she has given a direction under *paragraph (a)(iii)* where the officer has reasonable grounds for believing that the name or address, or both, provided pursuant to that direction is false or misleading.

(d) The person shall comply with a request made under *paragraph (c)* of him or her.

(e) In *paragraph (c)*, "proof of identity", in relation to a person, means—

(i) a driving licence,

(ii) a passport,

(iii) a student identity card from a school, recognised university, higher education institution or other education and training facility or from an equivalent school, university, institution or facility outside the State,

(iv) an age card issued by An Garda Síochána,

(v) an Irish residence permit issued by the Department of Justice,

(vi) a national identity card issued by a state other than the State, or

(vii) any other official document which includes in it a photograph of the person issued by or on behalf of the State or a state other than the State.

Chapter 18

Fixed payment notices

Definitions - *Chapter 18*

86. In this Chapter—

"relevant authority", in relation to a relevant offence, means whichever of the Minister or a local authority has the ownership or guardianship of the national monument to which the offence relates;

"relevant offence" means—

(a) a failure to comply with a direction given under *section 76 (2)*,

(b) a contravention of a bye-law made under *section 81* and which is stated to be a penal bye-law,

(c) a failure to comply with *section 82 (2)*,

(d) a failure to comply with a direction given under *section 83 (6)*, or

(e) a failure to comply with a direction given under *section 85 (2)*.

Authorised officers

87. (1) The Commissioners may (or, if directed in writing by the Minister to do so, shall), in relation to a national monument (M), appoint any officer of the Commissioners to be an authorised officer for the purposes of—

(a) giving and ensuring compliance with a direction under *section 76 (2)* which relates to the monument,

(b) ensuring compliance with bye-laws within the meaning of *section 79* which relate to the monument,

(c) ensuring compliance with *section 82 (2)*,

(d) giving and ensuring compliance with a direction under *section 83 (6)* which relates to the monument, and

(e) giving and ensuring compliance with a direction under *section 85 (2)* which relates to the monument.

(2) The Commissioners shall furnish an officer appointed under *subsection (1)* as an authorised officerwith a certificate of his or her appointment and the authorised officer shall, when performing a function conferred on him or her under this Part in relation to the national monument (M) to which his or her appointment relates, if requested to do so by any person thereby affected, produce the certificate or a copy of it to that person for inspection.

(3) A local authority may, in relation to a national monument (LA), appoint any officer of the local authority to be an authorised officer for the purposes of—

(a) giving and ensuring compliance with a direction under *section 76 (2)* which relates to the monument,

(b) ensuring compliance with bye-laws within the meaning of *section 79* which relate to the monument,

(c) ensuring compliance with *section 82 (2)*,

(d) giving and ensuring compliance with a direction under *section 83 (6)* which relates to the monument, and

(e) giving and ensuring compliance with a direction under *section 85 (2)* which relates to the monument.

(4) A local authority shall furnish an officer appointed under *subsection (3)* as an authorised officer with a certificate of his or her appointment and the authorised officer shall, when performing a function conferred on him or her under this Part in relation to the national monument (LA) to which his or her appointment relates, if requested to do so by any person thereby affected, produce the certificate or a copy of it to that person for inspection.

(5) An authorised officer may only perform a function conferred on him or her under this Part in relation to the national monument to which his or her appointment relates.

Fixed payment notice for relevant offence

88. (1) Subject to *section 87 (5)*, for the purposes of assisting in the protection and proper management of national monuments through effective sanctions for a failure or contravention referred to in the definition of "relevant offence" in *section 86* , where an authorised officer has reasonable grounds for believing that a person has committed a relevant offence, the authorised officer may give to the person a notice (in this section referred to as a "fixed payment notice") in writing and in the prescribed form stating—

(a) the name and address of the person,

(b) that the person is alleged to have committed that offence,

(c) that the person may, during the period of 21 days beginning on the date of the notice, make to the relevant authority, at the address specified in the notice, a payment of the amount specified in *subsection (3)* in respect of that offence, accompanied by the notice,

(d) that the person is not obliged to make the payment specified in the notice, and

(e) that a prosecution of the person to whom the notice is given in respect of the relevant offence concerned will not be instituted during the period of 21 days beginning on the date of the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of that offence will be instituted.

(2) Where a fixed payment notice is given—

(a) the person to whom it applies may, during the period of 21 days beginning on the date of the notice, make to the relevant authority, at the address specified in the notice, the payment specified in the notice, accompanied by the notice,

(b) the relevant authority shall receive the payment and shall, upon receipt of the payment, issue a receipt for it and any payment so received shall not be recoverable by the person who made it and the relevant authority shall retain the money for disposal in accordance with *subsection (4)*, and

(c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) The amount to be specified in a fixed payment notice in respect of a relevant offence shall be —

(a) such amount not exceeding €200 as may be prescribed, or

(b) if no such amount stands prescribed, €100.

(4) Moneys received by the relevant authority pursuant to the giving of a fixed payment notice shall—

(a) if the Commissioners are the relevant authority, be applied by them towards meeting the expenses incurred by them in performing their functions under *Chapter 17*, and

(b) if a local authority is the relevant authority, be lodged to the credit of the local fund maintained by the local authority pursuant to, and in accordance with, section 97 of the Act of 2001 and expended in accordance with that section.

Chapter 19

Enforcement of easements and covenants, etc.

Enforcement of easements and covenants, etc.

89. (1) The Minister, the Commissioners or a local authority, as appropriate, may enforce an easement where the easement relates to, or has the effect of, whether in whole or in part, providing access to a national monument by members of the public or a class of members of the public.

(2) Where the Minister or a local authority conveys an estate (or part of an estate) in a registered monument to another person, then the covenants (if any) for the protection of the monument or its amenities, or for access to it (whether by the Minister or a local authority or members of the public), shall bind—

(a) that person,

(b) any person who subsequently succeeds to that estate, and

(c) any person to whom that estate is subsequently conveyed.

(3) *Subsection (2)* applies whether or not—

(a) in the case of a freehold covenant, any conditions under the Land and Conveyancing Law Reform Act 2009 apply to the covenant, and

(b) in the case of a leasehold covenant, the common law or equitable conditions for enforceability apply to the covenant.

(4) This section shall not operate to prejudice the generality of any power, under another enactment or a rule of law, of the Minister, the Commissioners or a local authority, to enforce an easement or covenant.

(5) The Minister may, by notice in writing, request a local authority to consider creating a public right of way, under section 206 or 207 of the Act of 2000, to a registered monument situated in the authority's functional area.

(6) The local authority, the subject of a request under *subsection (5)*, shall consider the request and make a recommendation thereon to its elected members within 90 days beginning on the date on which it received the request.

PART 3

Measures to assist in implementing 1972 convention concerning protection of world cultural and natural heritage

Interpretation

90. (1) In this Part, "Convention" means the Convention Concerning the Protection of the World Cultural and Natural Heritage done in Paris on 23 November 1972 (the text of which is set out, in the English language and for ease of reference, in *Schedule 3*).

(2) A word or expression that is used in this Part and is also used in the Convention has, unless the context otherwise requires, the same meaning in this Part as it has in the Convention.

World Heritage Property in State

91. A property included in the World Heritage List under Article 11 of the Convention, and which is situated in the State, shall be known as "World Heritage Property".

Competent authority

92. The Minister is the competent authority for—

(a) subject to *section 93* , submitting to the World Heritage Committee, on behalf of the State, the inventory referred to in Article 11 of the Convention, and

(b) arranging, on behalf of the State and in co-operation with such other Ministers of the Government as may be appropriate, participation in the work of the World Heritage Committee.

Consultation

93. (1) The Minister shall, before submitting the inventory referred to in Article 11 of the Convention to the World Heritage Committee, carry out such consultation with such persons, or the public, as appears appropriate to him or her and may specify procedures for the carrying out of such consultation.

(2) The Minister may carry out such consultation with such persons, or the public, as appears appropriate to him or her on matters relating to World Heritage Property or property in respect of which the Minister is satisfied that it has the potential to become included in the World Heritage List under Article 11 of the Convention.

Savings

94. The enactment of this Part shall not be taken as prejudicing the validity of anything previously done for the purpose of complying with the State's obligations under the Convention or participating in the work of the World Heritage Committee.

PART 4

Archaeological Objects

Chapter 1

Definitions

Definitions - *Part 4*

95. In this Part—

"designated museum" means a museum designated under *section 107* ;

"designated site" means a site designated under *section 104 (1)*;

"dispose", in relation to an archaeological object, includes—

(a) destroying the object,

(b) depositing the object in any site, or

(c) transferring the object to another person, whether with or without the transferor retaining ownership of the object;

"ownership", in relation to an archaeological object, includes possession of the object;

"relevant archaeological object" means an archaeological object—

(a) which is, or is required to be, the subject of a preliminary report under *section 101 (2)(b)*, or

(b) which is found during the course of a licensable activity where the licence is not subject to a condition or conditions referred to in *section 101 (8)*;

"relevant person" means—

(a) the Minister or an officer of the Minister acting on behalf of the Minister,

(b) the Board or an officer, agent or servant of the Board acting on behalf of the Board, or

(c) a person authorised in writing by the Board and acting in accordance with the authorisation;

"temporary designated site" means a site designated under *section 104 (2)*.

Chapter 2

Ownership and disposal of archaeological objects

State ownership of archaeological objects with no known owner, etc.

96. (1) Without prejudice to any other rights of the State arising in relation to any archaeological object found before 21 November 1994 but subject to *section 4 (4)(a)*, there shall, by virtue of this subsection, be vested in the State the ownership of any archaeological object where such object has no known owner.

(2) The ownership of an archaeological object vested in the State by virtue of *subsection (1)* is an absolute and immediate right to possession of the object.

(3) An owner or owner exception of land, not being the State, is deemed not to acquire any rights of ownership to an archaeological object found on, in or under the land.

(4) A finder of an archaeological object is deemed not to acquire any rights of ownership to the object.

(5) Notwithstanding *subsections (3)* and *(4)*, the landowner on whose land an archaeological object is found, or the finder of an archaeological object, shall, if the object is taken from him or her other than in accordance with this Act or another enactment, or if he or she is induced to relinquish possession of the object by dishonesty, be deemed to be the owner of the object for the purposes of any offences under the Criminal Justice (Theft and Fraud Offences) Act 2001 .

(6) Subject to *subsection (8)*, without prejudice to any other rights of the State to an archaeological object, the Board may, in respect of an archaeological object found between 6 December 1922 and 21 November 1994, apply to the court for an order declaring the object to be in the ownership of the State.

(7) The court may grant an order referred to in *subsection (6)* if it is satisfied that, in all the circumstances, it would be appropriate to do so, and the order may be so granted subject to such conditions specified in the order as the court thinks are appropriate.

(8) An application under *subsection (6)* shall be made to the Circuit Court.

(9) An application under *subsection (6)* may be made *ex parte* in accordance with rules of court.

Disapplication of Statute of Limitations 1957, etc.

97. (1) The Statute of Limitations 1957 shall not—

(a) apply to an action for recovery by the State of an archaeological object, whether such action is made under this Act or another enactment, or

(b) extinguish a title of the State to, or any other interest of the State in, an archaeological object.

(2) No rule of law relating to treasure trove shall apply to an archaeological object.

Acquisition of archaeological object by Minister

98. (1) Subject to *subsection (2)*, the Minister may, after consultation with the Board and with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform—

(a) acquire (whether or not for valuable consideration), for the State, by agreement or, subject to *subsection (3)*, compulsorily, an archaeological object from the owner of the object or a person purporting to be such, or

(b) accept, on behalf of the State, a gift, bequest or devise of an archaeological object where the conditions (if any) to which the gift, bequest or devise, as the case may be, is subject are not inconsistent with the provisions of this Act.

(2) The Minister shall comply with the provisions of *Schedule 4* in respect of the compulsory acquisition by the Minister of an archaeological object under this section.

(3) An archaeological object shall not be compulsorily acquired under this section if—

(a) a person has lawfully brought it into the State, and

(b) there is an agreement in writing between that person and the Minister or Board that the object will not be so acquired if the conditions (if any) specified in the agreement relating to the object are complied with.

(4) A person (not being the Minister or the Board) shall not initiate legal proceedings seeking the recovery, on behalf of the State, of an archaeological object referred to in *subsection (3)* except with the consent of the Minister.

(5) Nothing in this section shall operate to prejudice the acquisition by the Board of archaeological objects under the Act of 1997.

Disposal of archaeological object

99. (1) Subject to *subsection (6)*, an archaeological object which is owned by the State shall not be disposed of by a person except in accordance with *subsection (2)*.

(2) Subject to *subsections (3)*, *(6)* and *(7)*, where the Board is of the opinion that an archaeological object is not, or has ceased to be, of sufficient archaeological, historic, cultural or scientific interest to justify its continued retention by the State, the Board may consent to the disposal of the object in such manner as may be specified in the consent.

(3) (a) *Subsection (2)* shall be in addition to, and not in substitution for, any authorisation of any other person that is necessary to make lawful the disposal of the archaeological object concerned.

(b) In *paragraph (a)*, "authorisation of any other person" includes the giving or granting of a licence, consent, approval, permission or direction, whether under an enactment or otherwise.

(4) Where an archaeological object is the subject of an order under *section 96 (7)*, the Board shall not consent to its disposal other than—

(a) with the consent of the Minister, and

(b) either—

(i) in conformity with any conditions to which such order is subject, or

(ii) with the leave of the court which made the order.

(5) Where the disposal of an archaeological object under this section is by way of, or includes, the transfer of the object to another person—

(a) the transfer may be made subject to such conditions as are specified in a notice in writing given by the Board to the person,

(b) subject to *paragraph (c)*, the person (and the person's successors in title to the person's interest in the object) shall comply with any such conditions, and

(c) the Board may, by notice in writing given to the person (or the person's successors in title to the person's interest in the object), specify one or more than one of such conditions with which the person (or those successors) need no longer comply from the date, or the occurrence of the event, specified in the notice for the purpose.

(6) *Subsections (1)* and *(2)* shall not apply to the disposal, or proposed disposal, of an archaeological object pursuant to—

(a) section 7 or 9 of the National Archives Act 1986 , or

(b) section 18 of the Act of 1997.

(7) Where the Board is minded to give consent under *subsection (2)* to the disposal of an archaeological object which was found during the course of carrying out a licensable activity, it shall—

(a) consult with the Minister to seek his or her views (if any) on the proposed disposal, and

(b) if those views (if any) are received within the period prescribed for the purposes of this paragraph or, if no such period is prescribed, within 21 days from the date of consultation, have regard to those views in deciding whether or not to give such consent.

Supplementary provisions

100. A gift, bequest or devise of an archaeological object to the State shall not be inconsistent with the provisions of this Act solely on the ground that the gift, bequest or devise, as the case may be, imposes conditions in respect of the site where the object may be kept.

Chapter 3

Finding of archaeological objects

Requirement to report finding of archaeological object

101. (1) This section applies to an archaeological object other than an archaeological object which has been the subject of a preliminary report under *subsection (2)(b)* given to the Board or a member of An Garda Síochána.

(2) (a) *Paragraph (b)* applies where a person finds, or believes that he or she has found, a thing to which this section applies.

(b) Subject to *subsections (3)* and *(7)*, the person shall, before the expiration of the prescribed period for reporting the thing under this section (or, if such period is not prescribed, before the expiration of 72 hours after finding the thing), make a preliminary report of the finding of the thing to the Board or a member of An Garda Síochána.

(c) Different periods may be prescribed for making a preliminary report of the finding of a thing under this section by reference to—

(i) specified classes of persons, or

(ii) the means (including surveys, howsoever conducted) by which the thing was found,

or any combination thereof.

(3) (a) A person making a preliminary report under *subsection (2)* shall, in the report—

(i) state his or her name and address,

(ii) describe the thing found (which may include a photograph or other image of the thing), and

(iii) describe the site where the thing was found (which may include a photograph or other image of the site).

(b) A member of An Garda Síochána to whom a preliminary report under *subsection (2)(a)* is made shall cause the report, or a copy of the report, to be given to the Board as soon as is practicable after the member receives the report.

(4) (a) Subject to *subsection (7)*, where a person makes a preliminary report under *subsection (2)* to the Board or a member of An Garda Síochána, the Board shall cause the person to be given, subject to *subsections (5)* and *(9)*, a return in the specified form.

(b) A person who is given a return referred to in *paragraph (a)* shall complete it and return it, to the person specified in the return for the purpose, before the expiration of 7 days from the day on which he or she was given the return.

(5) Without prejudice to the generality of *section 223* , a return referred to in *subsection (4)(a)* required to be completed by a person shall require the person to specify the following in the return:

(a) his or her name and address;

(b) the date and time when he or she found the thing concerned;

(c) a description of the thing (which may include a photograph or other image of the thing);

(d) the circumstances in which he or she found the thing;

(e) the site of the thing (which may include a photograph or other image of the site);

(f) if known to the person, the name of the owner or occupier of the land on which the thing is or was situated.

(6) Subject to *subsection (10)*, where the Board receives a return referred to in *subsection (4)(a)*, it shall cause the thing the subject of the return, or the site of the thing, or both, to be inspected by a person on behalf of the Board.

(7) Subject to *subsection (8)*, this section shall not apply to the finding of a thing in the course of any licensable activity if—

(a) the activity is carried out under and in accordance with a licence, and

(b) the licence is subject to a condition or conditions requiring any finding of a thing to which this section would apply but for this subsection to be reported to the Minister or the Board in such manner as is specified in the licence, whether individually or with other findings of such things made in the course of the activity.

(8) It may be specified as a condition of a licence that this section shall apply to the finding of a thing occurring in the course of the activities authorised under the licence, whether generally or in such cases or circumstances as may be specified.

(9) *Subsection (4)(a)* shall not place the Board under any obligation to cause a return referred to in that subsection to be given to a person where the Board is of the opinion that—

(a) a preliminary report under *subsection (2)(b)* made by the person—

(i) does not relate to a thing to which this section applies,

(ii) does not merit the completion of such return, or

(iii) is trivial or vexatious,

or

(b) it is otherwise unnecessary that such return be completed in respect of that report.

(10) *Subsection (6)* shall not place the Board under any obligation to cause a thing the subject of a return referred to in *subsection (4)(a)*, or the site of the thing, to be inspected if the Board is of the opinion that—

(a) the thing is not a thing to which this section applies,

(b) the site does not contain a thing to which this section applies,

(c) the inspection would pose a risk to the health or safety of the person who would otherwise carry out the inspection on behalf of the Board,

(d) the inspection is not merited or is otherwise unnecessary, or

(e) the return is trivial or vexatious.

(11) Nothing in this section shall be construed to prejudice the generality of *section 190* .

Safekeeping of thing to which *section 101* applies

102. Where a person—

(a) has found a thing in respect of which he or she is required to make a preliminary report under *section 101 (2)*, and

(b) has reasonable grounds to believe that it is necessary to remove the thing from the site where he or she found it for the purposes of the safekeeping of the thing,

he or she may remove the thing from that site and place it, as soon as is practicable, in a designated site or temporary designated site.

Prohibition against interfering, etc., with relevant archaeological object, etc.

103. (1) Subject to *section 102* and *subsection (2)*, a person, other than a relevant person, shall not interfere with or remove a relevant archaeological object, or cause it to be interfered with or removed, except under and in accordance with a licence.

(2) The Board may, where it is of the opinion that a relevant archaeological object is not, or has ceased to be, of sufficient archaeological, historic, cultural or scientific interest to merit the protection afforded by *subsection (1)*, by notice published in *Iris Oifigiúil* specify that that subsection shall cease to apply to that object from the date, or the occurrence of the event, specified in the notice for the purpose and, accordingly, that subsection shall cease to apply to that object from that date or the occurrence of that event, as the case may be.

Safekeeping of relevant archaeological objects

104. (1) The Board may—

(a) by notice in writing, designate a site where relevant archaeological objects may be placed for the purposes of the safekeeping of the objects, or

(b) by notice in writing, revoke a designation referred to in *paragraph (a)* of a site if the notice specifies where the archaeological objects (if any) placed therein are to be transferred, either before or immediately upon the revocation taking effect.

(2) Subject to *subsection (3)*, the Board may, by notice in writing, designate a site where relevant archaeological objects may be placed for not more than 3 years for the purposes of the temporary safekeeping of the objects.

(3) The Board shall cause a relevant archaeological object placed in a temporary designated site to be transferred, on or before the 3rd anniversary of the date on which it was so placed in that site, to a designated site unless the temporary designated site has, subsequent to the placing of the object in it, become a designated site.

Actions that may be taken by Board in respect of relevant archaeological object

105. (1) Subject to *section 106* , where the Board is aware of a relevant archaeological object, it shall, if it is not aware of any owner of the object—

(a) take the object into its custody pending a decision to retain the object on behalf of the State or to dispose of it in accordance with *section 99* ,

(b) retain the object on behalf of the State, or

(c) dispose of the object in accordance with *section 99* .

(2) Where the Board takes a relevant archaeological object into its custody pursuant to *subsection (1)(a)*, the object shall be kept—

(a) in a designated site,

(b) in a temporary designated site, or

(c) at the site where it was found.

(3) Where the Board decides to retain a relevant archaeological object on behalf of the State pursuant to *subsection (1)(b)*, the object may be kept—

(a) in a designated site,

(b) in a temporary designated site, or

(c) either—

(i) at the site where it was found, or

(ii) at another site providing a natural environment conducive to the protection of the object,

if the Board is satisfied that the object would be best protected by doing that.

(4) Where the Board—

(a) decides to retain a relevant archaeological object on behalf of the State pursuant to *subsection (1)(b)*, and

(b) is of the opinion that the object would be best protected—

(i) at the site where it was found, or

(ii) at another site providing a natural environment conducive to the protection of the object,

the Board may, with the consent in writing of the owner (if any) of that site, cause that object, as the case requires, to continue to be kept at that site or to be moved to and kept at another site.

(5) A consent referred to in *subsection (4)* given by the owner of a site referred to in that subsection shall bind the successors in title of that owner to that site.

(6) A person, other than a relevant person, shall not interfere with or remove, or cause to be interfered with or removed, a relevant archaeological object kept at a site pursuant to *subsection (4)*.

(7) Where the Board makes a decision under *subsection (4)*, it shall, as soon as is practicable after making the decision, give the Minister notice in writing of the decision.

Provisions supplementary to *sections 101* to *105*

106. (1) Subject to *subsection (2)*, this Chapter shall not be construed to require the Board to take custody of, or to otherwise take into its possession or the possession of the State, an archaeological object found in the course of an activity which is required to be carried out under and in accordance with a licence unless the Board is satisfied that—

(a) if there is such a licence, all the conditions of the licence relating to archaeological objects have been complied with, or

(b) if there is no such licence, any civil or criminal proceedings arising out of the carrying out of that unlicensed activity have been concluded.

(2) This Chapter shall not be construed to prevent the Board, at its discretion, from authorising the temporary keeping of an archaeological object at a site specified in the authorisation where the Board is satisfied that that is necessary for the protection of the object.

Chapter 4

Placing of archaeological objects in designated museums

Designation of museums to which *Chapter 4* applies

107. (1) (a) The Board may, with the consent of the Minister, by notice published in *Iris Oifigiúil*, designate a museum as a museum to which this Chapter applies if the Board is satisfied that the museum is funded, in whole or in part, by a local authority.

(b) The Board shall, in the designation under *paragraph (a)* of a museum, also designate a person, connected with the museum, as the Board thinks fit to be the person responsible for compliance with the procedures referred to in *section 110* in so far as such procedures relate to archaeological objects placed in that museum.

(2) The Board may, with the consent of the Minister, by notice published in *Iris Oifigiúil*, revoke the designation under *subsection (1)(a)* of a museum, from the date, or the occurrence of the event, specified in the notice for the purpose, if—

(a) the Board is satisfied that the museum has ceased to be a suitable site to place archaeological objects, and

(b) arrangements have been made by the Board, either before the revocation takes effect or immediately upon the revocation taking effect, for the safekeeping, in another designated museum or the National Museum of Ireland, of any archaeological objects placed in the museum under *section 108 (1)*.

Placing of archaeological object in designated museum

108. (1) Where—

(a) an archaeological object—

(i) is owned by the State, and

(ii) is in the possession of the Board,

and

(b) the Board is of the opinion that the object is primarily, or is in particular, of local interest,

the Board may, subject to *subsections (3)* to *(5)* and *sections 109* and *110* , place the object in such designated museum as, in its opinion, is the most appropriate having regard to such local interest.

(2) An archaeological object shall not be considered to be in the possession of the Board for the purposes of *subsection (1)* if it is only in the custody or care of the Board on a temporary basis.

(3) Where an archaeological object was acquired under *section 98 (1)(a)* for valuable consideration, the Board shall not, under *subsection (1)*, place the object in a designated museum except with the consent of the Minister.

(4) Where an archaeological object is the subject of an order under *section 96 (7)*, the Board shall not, under *subsection (1)*, place the object in a designated museum—

(a) except with the consent of the Minister, and

(b) in contravention of any conditions specified in the order.

(5) Where the Board is unable under *subsection (1)* to place an archaeological object in a designated museum because of any conditions referred to in *subsection (4)(b)*, the Board may, with the consent of the Minister, apply to the court which made the order concerned under *section 96 (7)* to vary the conditions specified in the order so as to remove that inability.

Transfer of archaeological object placed in designated museum

109. (1) Where the Board has, under *section 108 (1)*, placed an archaeological object in a designated museum, neither the Board nor any other person shall dispose of the object as so placed except by means of a transfer of the object, in accordance with *subsection (2)*, to—

(a) another designated museum, or

(b) the National Museum of Ireland.

(2) Subject to *subsection (3)*, a transfer referred to in *subsection (1)* shall not be effected except with—

(a) the consent of the Board, or

(b) if the Board refuses to give such consent, the consent of the Minister given after the Minister has consulted the Board and the person seeking to effect such transfer.

(3) Where an archaeological object is the subject of an order under *section 96 (7)*, neither the Board nor the Minister shall give a consent referred to in *subsection (2)* in contravention of any conditions specified in the order.

(4) Where the Board or the Minister wishes to give a consent referred to in *subsection (2)* but is unable to do so because of any conditions referred to in *subsection (3)*, the Board may, with the consent of the Minister, apply to the court which made the order concerned under *section 96 (7)* to vary the conditions specified in the order so as to remove that inability.

Minister may prescribe standards to be complied with in respect of archaeological objects placed in designated museum

110. (1) The Minister may, after consultation with the Board and the Council, prescribe standards for the protection and safety of archaeological objects placed in a designated museum to be complied with by the person designated under *section 107 (1)(b)* to be the person responsible for such compliance.

(2) In this section, "standards", in relation to an archaeological object, include standards relating to—

(a) the levels of temperature, humidity or lighting to which the object may be exposed,

(b) the levels of security measures applicable to the object (whether alarm systems, security locks, the provision of security staff or otherwise), or

(c) the levels of professional curatorial and conservation staff available for the object.

Savings

111. The provisions of this Chapter are in addition to, and not in substitution for, the other provisions of this Act and the provisions of the Act of 1997.

Chapter 5

Payment of rewards

Payment of rewards in respect of finds of relevant archaeological objects

112. (1) (a) Subject to *paragraphs (b)* and *(c)* and *subsections (2)* to *(6)*, the Board may, at its discretion, pay a reward, to the finder of a relevant archaeological object, found on or after the commencement of this section, or to the owner or occupier of the land in, on or under which the object was found, or both such finder and owner or occupier, as the Board thinks fit, if the object is retained on behalf of the State and the Board is satisfied that it is in the public interest to pay such reward.

(b) Subject to *paragraph (c)*, the Board shall not pay a reward under *paragraph (a)* exceeding the relevant amount in respect of the finding of a relevant archaeological object except with the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform.

(c) For the purposes of *paragraph (b)*, the relevant amount is—

(i) subject to *subparagraph (ii)*, €25,000, or

(ii) such greater amount than €25,000 as may be prescribed by the Minister after consultation with the Board and with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform.

(2) The Board shall take account of one or more than one of the following criteria in deciding whether or not to pay a reward under *subsection (1)(a)* in respect of the finding of a relevant archaeological object:

(a) the intrinsic value and the general archaeological and historic importance of the object;

(b) the circumstances of the finding of the object, including, in particular, compliance or otherwise with the provisions of this Act;

(c) the amount of the rewards paid in the State in respect of the finding of other similar relevant archaeological objects.

(3) *Subsection (2)* shall not be construed as requiring the payment of a reward on the basis of the market value of the relevant archaeological object concerned but the Board may, at its discretion, take account of such market value if, in the Board's opinion, the circumstances of a particular case so warrants.

(4) The Board shall not pay a reward under *subsection (1)(a)* in respect of the finding of a relevant archaeological object—

(a) made in the course of any activity required to be carried out under a new authorisation or old authorisation (and whether or not such authorisation was in fact granted, issued or given), or

(b) made in the course of any activity exempted under this Act or the National Monuments Acts from a requirement to be carried out under a new authorisation or old authorisation.

(5) The Board shall not pay a reward under *subsection (1)(a)*, in respect of the finding of a relevant archaeological object, to an officer, agent, or servant of, or any other person acting on behalf of—

(a) the Minister,

(b) the Commissioners,

(c) the Board, or

(d) a local authority,

where such officer, agent, servant or other person found the object during the course of performing his or her functions under this Act or during the course of performing his or her functions arising from any office or employment, or contract for, or of, services, which is connected to this Act.

(6) The payment of a reward under *subsection (1)(a)* in respect of the finding of relevant archaeological object shall not be construed to confer any rights in respect of the object on the person to whom the reward was paid.

Chapter 6

Possession and disposal of archaeological objects by person other than Board, etc.

Possession of archaeological objects by person other than Board, etc.

113. (1) Subject to *subsection (3)*, a person shall not have in his or her possession an archaeological object which was found on or after 21 November 1994 unless the possession is for the purpose of satisfying section 23 of the Act of 1930 or *section 102* .

(2) Subject to *subsection (3)*, a person shall not have in his or her possession an archaeological object which was found after 26 February 1930 but before 21 November 1994 unless the object was reported in accordance with section 23 of the Act of 1930 or section 5 of the Act of 1994.

(3) *Subsections (1)* and *(2)* shall not apply to—

(a) the Board,

(b) an officer, agent or servant of the Board or any other person acting on behalf of the Board and who is acting in the course of his or her duties as such officer, agent or servant or other person, as the case may be,

(c) an officer, agent or servant of the Minister or any other person acting on behalf of the Minister and who is acting in the course of his or her duties as such officer, agent or servant or other person, as the case may be,

(d) a member of An Garda Síochána or a member of the naval service acting in the course of his or her duties as such member,

(e) a designated museum in respect of an archaeological object placed in the museum in accordance with *section 108* ,

(f) a person in possession of an archaeological object—

(i) which was not taken possession of by the Director under section 9 of the Act of 1994,

(ii) which was disposed of by the Director under section 3(a) of the Act of 1994, or

(iii) in respect of which the ownership of the State in the object was waived, pursuant to section 3 of the Act of 1994, before 3 May 2005,

(g) a person in possession of an archaeological object which was disposed of in accordance with *section 99* where such possession is in compliance with any conditions specified under that section applicable to such possession,

(h) possession of an archaeological object where such possession is pursuant to *section 105* or *106* ,

(i) a person in possession of an archaeological object where such possession is in accordance with, or for the purposes of complying with the conditions of, an old authorisation, a new authorisation, or the Act of 1997, and is otherwise not in breach of any other provision of this Act,

(j) subject to *subsection (4)*, possession of an archaeological object or a class of archaeological objects, prescribed for the purposes of this paragraph, or

(k) a receiver of wreck appointed under section 41 of the Act of 1993.

(4) In determining whether or not an archaeological object or a class of archaeological objects should be prescribed for the purposes of *paragraph (j)* of *subsection (3)*, the Minister shall—

(a) have regard to the following:

(i) the extent to which the application of this section to the archaeological object or class of archaeological objects would cause administrative difficulties or would be impracticable;

(ii) any matter that the Board would be entitled to take into account in determining whether or not an archaeological object should be retained by the State, whether in the National Museum of Ireland or a designated museum;

(iii) the archaeological object is not in the State but is the subject of a proposal to bring it into the State, whether temporarily or permanently, for the purposes of public exhibition, research or conservation,

and

(b) consult with the Board and have regard to the Board's views in so far as they relate to any matter to which the Minister must have regard under *paragraph (a)*.

(5) Nothing in section 44 of the Act of 1993 shall be construed to prejudice the operation of this Act.

Disposal or acquisition of archaeological objects by person other than Board, etc.

114. (1) Subject to *subsection (2)*, a person shall not dispose of or acquire an archaeological object for the time being situated within the territorial extent of the application of this Act, whenever or wherever such object was found, without having first given, not less than 30 days before the proposed disposal or acquisition, as the case may be, of the object, notice in writing in the specified form to the Board of such proposed disposal or acquisition.

(2) *Subsection (1)* shall not apply to—

(a) the disposal of an archaeological object—

(i) which was not taken possession of by the Director under section 9 of the Act of 1994,

(ii) which was disposed of by the Director under section 3(a) of the Act of 1994, or

(iii) in respect of which the ownership of the State in the object was waived, pursuant to section 3 of the Act of 1994, before 3 May 2005,

(b) the disposal of an archaeological object pursuant to *section 99* where such disposal is in compliance with any conditions specified under that section,

(c) the temporary transfer of an archaeological object where such transfer is in accordance with, or for the purposes of complying with the conditions of, any new authorisation or old authorisation and is otherwise not in breach of any other provision of this Act,

(d) the disposal of an archaeological object where such disposal is in accordance with, or for the purposes of complying with the conditions of, any new authorisation or old authorisation and is otherwise not in breach of any other provision of this Act,

(e) the temporary transfer of an archaeological object where—

(i) the transferee does so for the purpose of examining the object so as to confirm or establish whether it is of archaeological interest, and

(ii) such transfer is not for, or made in connection with, any purpose of immediate or future monetary gain or reward on the part of the transferor or transferee and is otherwise not in breach of any other provision of this Act,

(f) the transfer by any person of an archaeological object to the Board or an officer, agent or servant of, or other person acting on behalf of, the Board, whether in accordance with or for the purposes of complying with any provisions of this Act or otherwise, or

(g) subject to *subsection (3)*, the disposal, of an archaeological object or a class of archaeological objects, prescribed for the purposes of this paragraph.

(3) In determining whether or not an archaeological object or a class of archaeological objects should be prescribed for the purposes of *paragraph (g)* of *subsection (2)*, the Minister shall—

(a) have regard to the following:

(i) the extent to which the application of this section to the archaeological object or class of archaeological objects would cause administrative difficulties or would be impracticable;

(ii) any matter that the Board would be entitled to take into account in determining whether or not an archaeological object should be retained by the State, whether in the National Museum of Ireland or a designated museum,

and

(b) consult with the Board and have regard to the Board's views in so far as they relate to any matter to which the Minister must have regard under *paragraph (a)*.

(4) (a) Where the Board receives, in respect of an archaeological object, a notice under *subsection (1)* from a person, the Board, by notice in writing given to the person and accompanied by the specified form concerned, may require the person, within the period specified in the notice, to provide the Minister with such information required by that form for the purpose of enabling the Minister to ascertain whether or not the object is lawfully held, or was lawfully obtained, whether by that person or another person.

(b) A person given a notice under *paragraph (a)* shall comply with the notice.

Chapter 7

Duties of coroners in respect of reports of human remains

Duties of coroners in respect of reports of human remains which are also archaeological objects

115. (1) Where a report is made to a coroner concerning human remains, whether under the Coroners Act 1962 or otherwise, and it appears to the coroner that the remains are, or may be, an archaeological object, the coroner shall, as soon as is practicable, consult the Board.

(2) Where, after a consultation referred to in *subsection (1)* between a coroner and the Board, the Board is satisfied that the human remains concerned are an archaeological object—

(a) the remains shall be dealt with in accordance with the provisions of this Act and notwithstanding the provisions of the Coroners Act 1962 , and

(b) the coroner shall not take any further action in respect of the remains.

Chapter 8

Alteration of archaeological object

Alteration of archaeological object

116. (1) In this section, "alter", in relation to an archaeological object, means to injure, deface, destroy, clean or restore (including chemically clean or restore, or chemically change any of the constituents of, whether for protection or otherwise) the object, or to take a sample of the object by cutting, drilling or any other process.

(2) Subject to *subsections (3)* and *(4)*, a person shall not alter, or cause the alteration of, an archaeological object otherwise than under and in accordance with a licence.

(3) Where—

(a) an application is made for the grant of a licence in respect of a licensable activity other than the licensable activity to which a licence referred to in *subsection (2)* would relate (that is, altering or causing the alteration of, an archaeological object),

(b) the application contains a proposal for the alteration of an archaeological object found during the course of the activity in respect of which the application is made, and

(c) the Minister, with the agreement in writing of the Board, indicates consent to the proposal or consent to the proposal subject to such amendment of the proposal as is specified in the consent,

then such alteration of the archaeological object the subject of the proposal or the proposal as so amended, as appropriate, may be authorised by or under a licence and shall, to the extent so authorised, be exempt from *subsection (2)*.

(4) Subject to *subsection (5)*, *subsection (2)* shall not apply to a class of archaeological objects prescribed for the purposes of this subsection.

(5) In determining whether or not a class of archaeological objects should be prescribed for the purposes of *subsection (4)*, the Minister shall—

(a) have regard to the following:

(i) the extent to which it is, or is not, necessary to require the alteration of archaeological objects of that class to be regulated under this section so as to secure their appropriate protection;

(ii) the extent to which the application of this section to that class would cause administrative difficulties or would be impracticable;

(iii) any matter that the Board would be entitled to take into account in determining whether or not an archaeological object should be retained by the State, whether in the National Museum of Ireland or a designated museum,

and

(b) consult with the Board and have regard to the Board's views in so far as they relate to any matter to which the Minister must have regard under *paragraph (a)*.

Chapter 9

Acceptance into the law of the State of rules established under the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects

Interpretation - *Chapter 9*

117. (1) In this Chapter—

"claim under the Convention" means a claim to which Article 1 of the Convention applies;

"contracting state" means a state (other than the State) which is bound by the Convention;

"Convention" means the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects done at Rome on 24 June 1995 (the text of which is set out, in the English language and for ease of reference, in *Schedule 5*);

"cultural object" means an object within the scope of Article 2 of the Convention;

"person" includes a contracting state;

"possessor", in relation to a cultural object, includes a person alleged to be in possession of the object;

"relevant court"—

(a) in relation to a cultural object situated within the State, means the Circuit Court as specified in *section 118* , or

(b) in relation to a cultural object situated within the territory of a contracting state, the court or other competent authority in the jurisdiction of which the claim concerned would fall under the Convention if such claim were a claim in tort in relation to the object;

"stolen cultural object" has the same meaning and scope as it has under Article 3 of the Convention.

(2) This Chapter shall be construed and interpreted in accordance with the provisions of the Convention so as to give the Convention full force and effect.

(3) Any jurisdiction conferred on a court by this Chapter in respect of an object shall not prejudice the generality of any jurisdiction conferred on a court by any other enactment or a rule of law in respect of that object.

Circuit Court's jurisdiction under this Chapter

118. (1) The Circuit Court shall have jurisdiction to hear and determine proceedings under this Chapter in relation to a cultural object situated within the State.

(2) The jurisdiction conferred on the Circuit Court by *subsection (1)* shall be exercised by—

(a) subject to *paragraph (b)*, the judge for the time being assigned to the circuit in which the cultural object concerned is situated at the time a claim under the Convention is brought in respect of the object, or

(b) if there is doubt as to which is the appropriate Circuit Court for the purposes of *paragraph (a)*, the judge for the time being assigned to the Dublin Circuit Court.

Convention to have effect in State

119. The Convention shall have effect in the State in accordance with the provisions of this Chapter.

Bringing of claims, time limits for claims and determination of claims

120. (1) A claim under the Convention in respect of a cultural object may be brought in the relevant court by or on behalf of a contracting state or other person entitled to make a claim under the Convention.

(2) (a) Subject to *paragraph (b)*, a claim under the Convention brought in the relevant court in respect of a cultural object shall be against the possessor of the object.

(b) Where the identity of the possessor of a cultural object is not known, proceedings *in rem* may be brought in the relevant court in respect of that object.

(3) Notwithstanding any provision of the Statute of Limitations 1957 , a claim under the Convention may be brought within the time limits provided for in the Convention and, accordingly, no provision of that Act shall operate or have effect so as to extinguish the title of the owner of a cultural object in respect of which a claim is, or may be, made under the Convention where such claim is, or would be, in accordance with the time limits provided in the Convention.

(4) The reference in *subsection (3)* to "time limits provided for in the Convention" means those time limits provided for in paragraphs 3 and 4 of Article 3 of the Convention unless a declaration is made by the State in accordance with paragraphs 5 and 6 of Article 3 of the Convention, in which case the reference in *subsection (3)* to "time limits provided for in the Convention" shall mean the time limits provided for in paragraphs 3 and 4 of Article 3 of the Convention as so modified by reason of the making of that declaration.

(5) A declaration referred to in *subsection (4)* shall not be made unless the Minister has made an order stating that such a declaration will be made.

(6) Subject to *section 121 (1)* and *(2)*, in determining a claim under the Convention in respect of a cultural object, the relevant court shall apply the provisions of the Convention notwithstanding that the requirements of this Act, or any other enactment or a rule of law, might otherwise prevent the return of that object.

Possessor of stolen or illegally exported cultural object and compensation

121. (1) (a) Subject to *paragraph (b)*, notwithstanding Article 4 of the Convention, no compensation shall be payable to the possessor of a stolen cultural object.

(b) *Paragraph (a)* shall not be construed to exclude any remedy arising under this Act, or another enactment or a rule of law, which the possessor of a cultural object may have as against any prior transferor other than the contracting state or other person making a claim under the Convention in respect of the stolen cultural object concerned.

(2) (a) Subject to *paragraph (b)*, notwithstanding Article 6 of the Convention, compensation shall not be payable by a contracting state to the possessor of an illegally exported cultural object unless the relevant court considers it fair and reasonable that such payment should be made and, in its discretion, makes an order to that effect.

(b) The relevant court shall not make an order referred to in *paragraph (a)* unless it appears to the court that the possessor of an object—

(i) has acted in good faith at all material times,

(ii) neither knew nor ought reasonably to have known at the time of acquisition of the object that it had been illegally exported, and

(iii) is not the person who illegally exported the object from the requesting state.

(3) Where compensation is ordered to be paid in the circumstances referred to in *subsection (2)*, only such amount as appears to the relevant court to be fair and reasonable shall be ordered to be paid and compensation at the market value of the object shall not be necessary.

(4) Without prejudice to *subsections (1)* to *(3)*, no compensation shall be ordered by the relevant court to be paid to the possessor of a cultural object unless the possessor applies to the court for it to be paid prior to the making by the court of any order for the return of the object to the requesting state, and the burden of establishing or proving an entitlement to compensation on the making of such application shall be on the possessor.

Provisions supplementary to *sections 120* and *121*

122. (1) The burden of proof in relation to all matters arising under proceedings relating to a claim under the Convention shall be on the balance of probabilities.

(2) Any question as to whether a cultural object is a stolen cultural object for the purposes of the Convention, including for the purposes of Article 3(2) of the Convention, shall be determined by the relevant court on the basis of the law of the place where it is alleged the object was stolen.

(3) Any question as to whether a cultural object is an illegally exported cultural object for the purposes of the Convention shall be determined by the relevant court on the basis of the law of the place from which the cultural object was exported.

(4) Subject to the other provisions of this Chapter, an order requiring the return of a cultural object made consequent on a claim under the Convention brought in accordance with *section 120 (1)* may be on such terms and subject to such conditions as the relevant court considers fair and reasonable and specifies in the order.

(5) Where any claim for the return of a cultural object comes within the scope of Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014[8] on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No. 1024/2012 (Recast), then, notwithstanding the provisions of this Chapter, that Directive and the European Union (Return of Foreign Cultural Objects) Regulations 2016 (S.I. No. 53 of 2016) shall apply to the claim in place of the provisions of this Chapter and of the Convention.

(6) Notwithstanding the other provisions of this Chapter, a contracting state or other person seeking the return of a cultural object, whether situated within or outside the State, may, in addition or in the alternative, rely on this Act, or another enactment or a rule of law, whether in the same proceedings as a claim under the Convention or otherwise, but the failure of any such reliance shall in no way hinder or prevent a claim under the Convention.

(7) The possessor of a cultural object and the contracting state or other person seeking its return may agree to submit a claim under the Convention in respect of such object to an arbitration procedure under the Arbitration Act 2010 and, accordingly, in such event the provisions of that Act shall apply.

Interim and interlocutory orders

123. (1) The relevant court may, on an application being made to it pursuant to this Chapter in respect of a cultural object, make such interim or interlocutory orders as it considers appropriate, including such orders relating to the custody, safeguarding or examination of, or access to, or the restraint of any dealing with, the object, including the sale, transfer or export of the object.

(2) In *subsection (1)*, "dealing" means giving, selling, accepting or purchasing, whether or not for valuable consideration, and includes arranging or organising any dealing in a cultural object.

Rules of court

124. Rules of court shall make provision—

(a) as to the manner and form in which proceedings under this Chapter are to be commenced, and

(b) as to what may be received as evidence in such proceedings and the manner in which it is to be presented.

Chapter 10

Measures to assist the State in ratifying UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970

Definitions - *Chapter 10*

125. In this Chapter—

"Convention" means the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property done in Paris on 17 November 1970 (the text of which is set out, in the English language and for ease of reference, in *Schedule 6*);

"state party" means a state which is bound by the Convention;

"stolen" means stolen under the law at the place where the theft took place.

Minister shall prescribe cultural property for purposes of Convention

126. (1) There shall, as soon as is practicable after the commencement of this section, be prescribed the classes of objects that fall within the scope of Article 1 of the Convention as cultural property for the purposes of the Convention.

(2) In prescribing classes of objects under *subsection (1)*, the Minister shall have regard to whether objects of any such class are, or would be if brought within the State, of a class specified in *subsection (3)* or, notwithstanding that they are not situated within the State, are comparable to a class specified in *subsection (3)*.

(3) The classes of objects specified for the purposes of *subsection (2)* are—

(a) archaeological objects,

(b) objects which are articles to which Part IV of the Act of 1997 applies under section 49(1) of that Act,

(c) objects of a class or classes appropriate for entry in the register of cultural objects established under section 48(1) of the Act of 1997 (and whether or not any such objects have been so entered),

(d) objects of a class or classes appropriate for entry in the record of cultural objects established under section 48(2) of the Act of 1997 (and whether or not any such objects have been so entered),

(e) objects which are cultural goods for the purposes of Council Regulation (EC) No. 116/2009 of 18 December 2008[9] on the export of cultural goods,

(f) objects to which the European Communities (Return of Foreign Cultural Objects) Regulations 2016 (S.I. No. 53 of 2016) apply, and

(g) objects which are cultural goods for the purposes of Regulation (EU) 2019/880 of the European Parliament and of the Council of 17 April 2019[10] on the introduction and the import of cultural goods.

Minister may prescribe requirements for certification of exports of cultural property

127. (1) Subject to *subsection (2)*, for the purposes of compliance by the State with the requirements of Article 6 of the Convention, there may be prescribed procedures and requirements under which cultural property, being cultural property which falls within a class of objects prescribed under *section 126* as cultural property for the purposes of the Convention, which is exported shall be accompanied by a certificate specifying that the export is authorised under the law of the State.

(2) There may be prescribed exemptions from the procedures and requirements referred to in *subsection (1)* in the case of cultural property which cannot be exported except pursuant to—

(a) a licence, or

(b) a licence granted under the Act of 1997.

Prohibition of import of certain categories of stolen cultural property

128. (1) In this section, "cultural property" means cultural property designated for the purposes of Article 1 of the Convention by a state party other than the State.

(2) A person shall not import, or direct or authorise the importation of, cultural property stolen from a museum or a religious or secular public monument or similar institution in a state party other than the State.

Prohibition of possession of, or dealing in, certain categories of cultural property

129. (1) In this section—

"cultural property" means cultural property prescribed by the Minister under *section 126* or, in relation to cultural property brought into the State from another state party (whether directly or through another state), means cultural property designated by the appropriate authority in that state party;

"deal" means give, sell, accept or purchase, whether or not for valuable consideration, and includes arranging or organising any dealing in cultural property.

(2) A person shall not be in possession of or deal in cultural property that—

(a) has been stolen within or outside the State,

(b) has been illegally exported from another state, or

(c) has been exported or had its ownership transferred where, in either case, this was done under compulsion and arose directly or indirectly from the occupation of a state by another state,

knowing that, or being reckless as to whether, the cultural property was stolen or had been illegally exported or that the circumstances referred to in *paragraph (c)* applied to the cultural property.

Regulations regarding sale of cultural property

130. For the purposes of compliance with Article 10(a) of the Convention (in particular, providing for the register referred to in that Article), there may be prescribed requirements to be complied with by any person engaged in the sale of, or dealing with, cultural property which falls within a class of objects prescribed under *section 126* as cultural property for the purposes of the Convention.

Chapter 11

Passing of title to archaeological and historic objects, etc., obtained through dishonesty

Non-application of market overt rule and rule relating to sale under voidable title in certain cases

131. (1) Where an archaeological object, historic object, or object removed from a monument to which general protection applies or special protection applies, is sold without the relevant authorisation, section 22 (1) or 23 of the Sale of Goods Act 1893 , or any rule of law relating to sale in market overt or sale under voidable title, shall not apply to the sale of that object so as to give good title to the purchaser of that object.

(2) *Subsection (1)* is in addition to, and not in substitution for, section 56 of the Criminal Justice (Theft and Fraud Offences) Act 2001 .

(3) In this section, "relevant authorisation", in relation to the sale of an object referred to in *subsection (1)*, means a sale of the object pursuant to an authorisation given—

(a) by the owner of the object or another person entitled to authorise the sale, and

(b) freely and without fraud, deception, misrepresentation, duress or undue influence.

PART5

Wrecks and other Elements of Underwater Cultural Heritage

Chapter 1

State ownership of certain wrecks and restriction of salvage claims, etc.

Definitions - *Chapter 1*

132. In this Chapter, "relevant wreck" means—

(a) a wreck 100 or more years old, or

(b) a wreck that is otherwise of archaeological or historic interest.

Application of *Chapter 2* of *Part 4*, *section 112* and *Schedule 4* to relevant wrecks

133. (1) Subject to *section 4 (4)(b)* and *subsection (2)*, and without prejudice to the rights of the State to unclaimed wreck under the Act of 1993, or any other rights of the State arising in relation to wreck, the provisions of *Chapter 2* of *Part 4* , *section 112* and *Schedule 4* shall, with all necessary modifications, apply to a relevant wreck as those provisions apply to an archaeological object and, for the purposes of such application, references in *section 112* to a relevant archaeological object (within the meaning of *section 95*) shall be deemed to be a reference to a relevant wreck which is, or is required to be, the subject of a preliminary report referred to in *section 13 (2)(b)*.

(2) Subject to *subsection (3)*, the Board shall not, pursuant to *subsection (1)*, exercise a power under *section 99* except with the consent of the Minister.

(3) Where the relevant wreck is the subject of an order under *section 96 (7)*, the Board shall not exercise a power under *section 99* in contravention of any conditions specified in the order.

(4) Where the Board is unable under *subsection (1)* to exercise a power under *section 99* in relation to a relevant wreck because of any conditions referred to in *subsection (3)*, the Board may, with the consent of the Minister, apply to the court which made the order concerned under *section 96 (7)* to vary the conditions specified in the order so as to remove that inability.

Salvage payments

134. (1) (a) A person shall not be entitled to a salvage payment in respect of any of the objects specified in *subsection (2)* for the purposes of this subsection except an entitlement to a salvage payment that arises from a contract for salvage the provisions of which do not contravene a provision of this Act.

(b) *Paragraph (a)* shall not be construed to mean that a contract for salvage the provisions of which do not contravene a provision of this Act is, by reason of that fact alone, lawful or otherwise enforceable.

(2) The objects specified for the purposes of *subsection (1)* are—

(a) a wreck 100 or more years old, including any object removed from the wreck whether or not having been part of the wreck,

(b) an archaeological object that is 100 or more years old, and

(c) a registered monument, including any object removed from the monument whether or not having been part of the monument.

Special protection to be applied to relevant wrecks, etc.

135. *Section 30* shall be deemed to apply to—

(a) a wreck 100 or more years old, and

(b) a registered monument, or a prescribed monument, that is situated on, in or under land covered by water.

Prohibited activities in vicinity, etc., of relevant wreck, etc.

136. (1) *Subsection (2)* applies to each of the following things:

(a) a wreck 100 or more years old;

(b) a registered monument, or a prescribed monument, that is situated on, in or under land covered by water;

(c) an archaeological object situated on, in or under land covered by water.

(2) A person shall not, except under and in accordance with a licence, do any of the following (in this section referred to as a "relevant activity") at, on, in, over, under or in the vicinity of a thing to which this subsection applies:

(a) dive or direct or authorise diving;

(b) use or possess, or direct or authorise the use or possession of, diving, survey or salvage equipment;

(c) dump or deposit, or direct or authorise the dumping or deposition of, any thing whether or not it interferes with or causes damage to the thing;

(d) interfere, remove or tamper in any way (whether with or without causing damage) with the thing.

(3) (a) Subject to *paragraph (b)*, this section (apart from this subsection) does not apply to—

(i) the authorisation of a proposal for the carrying out of a relevant activity, or

(ii) the authorisation of the carrying out of a relevant activity,

where such authorisation (whether a licence, consent, approval, permission, or other authorisation) is granted, issued or given under an enactment (other than this Act) only for the purpose of making lawful the doing of an act as part of, or pertaining to, such activity which would otherwise, in the absence of such authorisation, be unlawful under that enactment.

(b) The disapplication, effected by *paragraph (a)*, of this section to an authorisation referred to in that paragraph shall not be construed to also disapply this section to—

(i) the proposal for the carrying out of the relevant activity, or

(ii) the carrying out of the relevant activity,

to which that authorisation relates.

Chapter 2

Measures to enable the State to ratify the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage

Interpretation - *Chapter 2*

137. (1) In this Chapter—

"Area" has the same meaning it has in the UNESCO Convention;

"continental shelf of a state party" means any area of sea bed over which a state party exercises sovereign rights under Part VI of the UN Convention;

"continental shelf of the State" means a designated area of the continental shelf within the meaning of the Act of 2021 and, for the purposes of this Act, includes the land underlying that area;

"exclusive economic zone of a state party" means the area beyond and adjacent to the territorial seas of a state party subject to the specific legal regime established in Part V of the UN Convention;

"exclusive economic zone of the State" shall be construed in accordance with section 13 of the Act of 2021;

"relevant person" means—

(a) either—

(i) an Irish citizen, or

(ii) a person ordinarily resident in the State,

(b) the master of an Irish vessel,

(c) a body corporate that is incorporated in the State, or

(d) a legal person (not being a body corporate referred to in *paragraph (c)*), whether incorporated or unincorporated, established or otherwise based in the State for the purpose of engaging in activities directed at underwater cultural heritage to which this Chapter applies and regardless of whether or not it is established or otherwise based in the State for any other purpose;

"state party" means a state which has consented to be bound by the UNESCO Convention other than the State;

"UN Convention" means the United Nations Convention on the Law of the Sea (UNCLOS) done at Montego Bay on 10 December 1982;

"UNESCO Convention" means the UNESCO Convention on the Protection of the Underwater Cultural Heritage done at Paris on 6 November 2001 (the text of which is set out, in the English language and for ease of reference, in *Schedule 7*).

(2) For the purposes of this Chapter, a person shall be deemed to be ordinarily resident in the State if he or she has had his or her principal residence in the State for the period of 12 months immediately preceding the alleged contravention concerned of a provision of this Chapter.

(3) (a) Subject to *paragraph (b)*, a word or expression that—

(i) is used in this Chapter,

(ii) is not defined in *section 2* or *subsection (1)*, and

(iii) appears in the UNESCO Convention,

has the meaning it has in the UNESCO Convention.

(b) A word or expression that—

(i) is used in this Chapter,

(ii) is not defined in *section 2* or *subsection (1)*, and

(iii) appears in the UNESCO Convention but has the meaning it has in the UN Convention,

has the meaning it has in the UN Convention.

Carrying out by relevant persons of activities directed at underwater cultural heritage beyond the limits of territorial seas

138. (1) In this section, "relevant area" means any area of sea or sea bed which is outside the contiguous zone and is not within the territorial seas, archipelagic waters or internal waters of another state.

(2) A relevant person shall not authorise or carry out, or knowingly permit to be authorised or carried out, in a relevant area activities directed at underwater cultural heritage other than under and in accordance with—

(a) a licence, or

(b) an authorisation granted pursuant to Article 10 or 12 of the UNESCO Convention by the Minister or the appropriate person in a state party.

Reporting of discovery of underwater cultural heritage or intention to engage in activities directed at underwater cultural heritage in exclusive economic zone of State, etc.

139. (1) (a) A relevant person who discovers underwater cultural heritage in the exclusive economic zone of the State or on the continental shelf of the State shall give notice in the specified form to the Minister of that discovery as soon as is practicable but, in any case, not later than 14 days after the discovery.

(b) Where a relevant person who is the master of an Irish vessel knows that a person on the vessel has, during the course of his or her stay on the vessel, discovered underwater cultural heritage in the exclusive economic zone of the State or on the continental shelf of the State, the master shall give notice in the specified form to the Minister of that discovery as soon as is practicable but, in any case, not later than 14 days after he or she has such knowledge (and whether or not that second-mentioned person is also a relevant person who must give notice under *paragraph (a)* of the discovery).

(2) (a) A relevant person who, pursuant to an authorisation referred to in *section 138 (2)(b)*(being an authorisation granted by the appropriate person in a state party), intends to engage in activities directed at underwater cultural heritage in the exclusive economic zone of the State or on the continental shelf of the State shall not start to engage in those activities until 3 months after the expiration of the date on which he or she has given notice in the specified form to the Minister of that intention.

(b) Where a relevant person who is the master of an Irish vessel knows that a person on the vessel intends, during the course of his or her stay on the vessel, to engage in activities directed at underwater cultural heritage in the exclusive economic zone of the State or on the continental shelf of the State, the master shall give notice in the specified form to the Minister of that intention as soon as is practicable but, in any case, not later than 14 days after he or she has such knowledge (and whether or not that second-mentioned person is also a relevant person who must give notice under *paragraph (a)* of the intention).

(3) (a) A relevant person who, whether or not pursuant to a licence, or an authorisation referred to in *section 138 (2)(b)*, discovers underwater cultural heritage in the exclusive economic zone of a state party or on the continental shelf of a state party shall give notice in the specified form to the Minister of that discovery as soon as is practicable but, in any case, not later than 14 days after the discovery.

(b) (i) Subject to *subparagraphs (ii)* and *(iii)*, a relevant person who intends to engage in activities directed at underwater cultural heritage in the exclusive economic zone of a state party or on the continental shelf of a state party shall not start to engage in those activities until 3 months after the expiration of the date on which he or she has given notice in the specified form to the Minister of that intention.

(ii) Subject to *subparagraph (iii)*, *subparagraph (i)* shall apply notwithstanding that such relevant person engages in such activities pursuant to an authorisation referred to in *section 138 (2)(b)* granted by a state party other than the Minister.

(iii) *Subparagraph (i)* shall not apply where such relevant person engages in such activities pursuant to a licence or an authorisation referred to in *section 138 (2)(b)* granted by the Minister.

(c) Where a relevant person who is the master of an Irish vessel knows that a person on the vessel has, during the course of his or her stay on the vessel, discovered underwater cultural heritage in the exclusive economic zone of a state party or on the continental shelf of a state party, the master shall give notice in the specified form to the Minister of that discovery as soon as is practicable but, in any case, not later than 14 days after he or she has such knowledge (and whether or not that second-mentioned person is also a relevant person who must give notice under *paragraph (a)* of the discovery).

(d) Where a relevant person who is the master of an Irish vessel knows that a person on the vessel intends, during the course of his or her stay on the vessel, to engage in activities directed at underwater cultural heritage in the exclusive economic zone of a state party or on the continental shelf of a state party, the master shall give notice in the specified form to the Minister of that intention as soon as is practicable but, in any case, not later than 14 days after he or she has such knowledge (and whether or not that second-mentioned person is also a relevant person).

(4) The giving of a notice under *subsection (1)*, *(2)* or *(3)* to the Minister does not preclude a specified form referred to in that subsection from requiring a relevant person to give copies of the notice to such other persons (if any) who are specified in the form.

(5) The Minister may, when given a notice under *subsection (1)*, *(2)* or *(3)*, give a copy of the notice or any information contained in it to such other persons as the Minister considers appropriate and permit such other persons to make available such notice or information, as the case may be, to any other appropriate person.

(6) The Minister shall, as soon as practicable after being given a notice under *subsection (1)*, *(2)* or *(3)*, give a copy of the notice to the Board.

Protection of underwater cultural heritage in exclusive economic zone of State, etc.

140. (1) In this section, "relevant area" means—

(a) the exclusive economic zone of the State, or

(b) the continental shelf of the State.

(2) Where—

(a) there is a discovery of underwater cultural heritage in a relevant area, or

(b) it is intended that an activity be directed at underwater cultural heritage in a relevant area,

the State shall, in respect of that discovery or activity, as the case may be, act as the Coordinating State for the purposes of Article 10 of the UNESCO Convention unless the Minister, having consulted such persons as he or she considers appropriate, makes an order declaring that the State shall not so act.

Protection of underwater cultural heritage in exclusive economic zone of state party, etc.

141. (1) In this section, "relevant area" means—

(a) the exclusive economic zone of a state party, or

(b) the continental shelf of a state party.

(2) Where—

(a) there is a discovery of underwater cultural heritage in a relevant area, or

(b) it is intended that an activity be directed at underwater cultural heritage in a relevant area,

the Minister may, in respect of that discovery or activity, as the case may be, pursuant to paragraph 3(b) of Article 10 of the UNESCO Convention, and having consulted such persons as he or she considers appropriate, accept, on behalf of the State, the appointment of the State as the Coordinating State for the purposes of that Article.

(3) An acceptance under *subsection (2)* shall be done by the Minister by way of an order.

Reporting of discovery of underwater cultural heritage or intention to engage in activities directed at underwater cultural heritage in the Area

142. (1) (a) A relevant person who, whether or not pursuant to a licence, or an authorisation referred to in *section 138 (2)(b)*, discovers underwater cultural heritage in the Area shall give notice in the specified form to the Minister of that discovery as soon as is practicable but, in any case, not later than 14 days after the discovery.

(b) Where a relevant person who is the master of an Irish vessel knows that a person on the vessel has, during the course of his or her stay on the vessel, discovered underwater cultural heritage in the Area, the master shall give notice in the specified form to the Minister of that discovery as soon as is practicable but, in any case, not later than 14 days after he or she has such knowledge (and whether or not that second-mentioned person is also a relevant person who must give notice under *paragraph (a)* of the discovery).

(2) (a) (i) Subject to *subparagraphs (ii)* and *(iii)*, a relevant person who intends to engage in activities directed at underwater cultural heritage in the Area shall not start to engage in those activities until 3 months after the expiration of the date on which he or she has given notice in the specified form to the Minister of that intention.

(ii) Subject to *subparagraph (iii)*, *subparagraph (i)* shall apply notwithstanding that such relevant person engages in such activities pursuant to an authorisation referred to in *section 138 (2)(b)* granted by a state party other than the Minister.

(iii) *Subparagraph (i)* shall not apply where such relevant person engages in such activities pursuant to a licence or an authorisation referred to in *section 138 (2)(b)* granted by the Minister.

(b) Where a relevant person who is the master of an Irish vessel knows that a person on the vessel intends, during the course of his or her stay on the vessel, to engage in activities directed at underwater cultural heritage in the Area, the master shall give notice in the specified form to the Minister of that intention as soon as is practicable but, in any case, not later than 14 days after he or she has such knowledge (and whether or not that second-mentioned person is also a relevant person who must give notice under *paragraph (a)* of the intention).

(3) The giving of a notice under *subsection (1)* or *(2)* to the Minister does not preclude a specified form referred to in that subsection from requiring a relevant person to give copies of the notice to such other persons (if any) who are specified in the form.

(4) The Minister may, when given a notice under *subsection (1)* or *(2)*, give a copy of the notice or any information contained in it to such other persons as the Minister considers appropriate and permit such other persons to make available such notice or information, as the case may be, to any other appropriate person.

Protection of underwater cultural heritage in the Area

143. (1) Where—

(a) there is a discovery of underwater cultural heritage in the Area, or

(b) it is intended that an activity be directed at underwater cultural heritage in the Area,

the Minister may, in respect of that discovery or activity, as the case may be, pursuant to paragraph 2 of Article 12 of the UNESCO Convention, and having consulted such persons as he or she considers appropriate, accept, on behalf of the State, the appointment of the State as Coordinating State for the purposes of that Article.

(2) An acceptance under *subsection (1)* shall be done by the Minister by way of an order.

Powers of Minister where State is Coordinating State under Article 10 or 12 of UNESCO Convention

144. (1) Subject to *subsection (2)*, when the State is, under *section 141* or *143* , the Coordinating State for the purposes of Article 10 or 12, as appropriate, of the UNESCO Convention, the Minister may exercise on behalf of the State all the powers of a Coordinating State under that Convention, including the granting of authorisations under that Article.

(2) The provisions of *Part 7* shall, with all necessary modifications, apply to the granting of authorisations referred to in *subsection (1)* by the Minister as if such authorisations were licences in respect of which the Minister were the licensing authority within the meaning of that Part and, in any such case, the other provisions of this Act (including *Part 10*) shall, with all necessary modifications, apply accordingly.

Provisions supplementary to *section 144*

145. (1) The Minister shall, in deciding whether or not to grant an authorisation under Article 10 or 12 of the UNESCO Convention, act in conformity with that Convention.

(2) Subject to *subsection (1)*, the Minister may grant an authorisation under Article 10 or 12 of the UNESCO Convention subject to any condition to which a licence might be made subject.

(3) A person who accepts a grant by the Minister of an authorisation under Article 10 or 12 of the UNESCO Convention shall be bound by it as if the person had been granted a licence.

Provisions relating to acceptance by relevant person of grant by state party of authorisation under Article 10 or 12 of UNESCO Convention

146. (1) In this section, "state party" includes a person within a state party who is authorised under the law of that state party to grant authorisations under Article 10 or 12 of the UNESCO Convention.

(2) Subject to *subsection (3)*, a relevant person who accepts a grant from a state party of an authorisation under Article 10 or 12 of the UNESCO Convention shall be bound by it under the law of the State as if he or she had been granted a licence.

(3) *Subsection (2)* shall not apply in the case of an authorisation referred to in that subsection which was granted otherwise than in accordance with the UNESCO Convention.

Restriction on import of underwater cultural heritage

147. A person shall not import underwater cultural heritage into the State knowing it to be underwater cultural heritage, or being reckless as to whether it is underwater cultural heritage, other than under and in accordance with a licence.

PART 6

Other Activities Licensable under this Act and Related Matters

Other activities licensable under this Act and related matters

148. (1) A person shall not, other than under and in accordance with a licence—

(a) undertake or carry out, or direct or authorise the undertaking or carrying out of, archaeological excavation,

(b) undertake or carry out, or direct or authorise the undertaking or carrying out of, archaeological monitoring,

(c) search for or collect, or direct or authorise the searching for or collection of, archaeological objects lying exposed on the surface of land, whether or not any such object is known to be on, in or under that land,

(d) search for, or direct or authorise the searching for, wrecks one hundred or more years old or archaeological objects or prescribed monuments, or other relevant things of archaeological interest, situated on, in or under the sea bed or land covered by water, whether or not the wrecks, objects, monuments or things, as the case may be, are known to be on, in or under the sea bed or that land where, or in respect of which, the searching takes place,

(e) be in possession of a detection device in, at, on, over or above, or within the immediate surroundings of, a registered monument or a wreck one hundred or more years old, or

(f) use, or direct or authorise the use of, a detection device for the purpose of identifying, locating (including searching for), investigating, surveying or recording any archaeological object or monument or relevant thing of archaeological interest, whether or not such object, monument or thing, as the case may be, is known to be on, in or under land where, or in respect of which, such use takes place.

(2) (a) A person shall not sell or otherwise supply a detection device except in a container or other packaging that is clearly and legibly marked (whether by means of a sticker, tag or otherwise) with the prescribed warning in relation to the use of that device in contravention of a provision of this Act.

(b) The prescribed warning, which shall be in the Irish language and the English language, shall specify—

(i) that the use of a detection device in the State, in certain circumstances specified in this Act, requires a licence,

(ii) that the possession of a detection device in, at, on, over or above a registered monument or a wreck one hundred or more years old requires a licence, and

(iii) that a breach of a requirement referred to in *subparagraph (i)* or *(ii)* is a criminal offence.

(3) The prescribed warning referred to in *subsection (2)* shall not be construed to prejudice the generality of *subsection (1) .*

(4) A person shall not promote, whether by advertising or otherwise, the sale or use of detection devices for the purpose of searching for archaeological objects unless the promotion concerned is accompanied by the prescribed warning referred to in *subsection (2)* applicable to the medium in which the promotion is made.

PART 7

Licences

Chapter 1

Interpretation

Interpretation - *Part 7*

149. (1) In this Part—

"Act of 2015" means the Legal Services Regulation Act 2015 ;

"appeals officer" means a person appointed under *section 156 (1)* to be an appeals officer;

"applicant", in relation to an application, means the person who made the application;

"application" means an application under *section 150 (1)*;

"competence" includes experience, knowledge, skills and qualifications (including professional or academic qualifications) relevant to any matter to which an application relates;

"legal practitioner" means a person who is a practising barrister or practising solicitor within the meaning of the Act of 2015;

"licensing authority", in relation to a licence, means—

(a) subject to *paragraphs (b)* to *(d)*, the Minister,

(b) in the case of a licence referred to in *section 82 (h)* where the bye-law maker referred to in that section is the Commissioners, the Commissioners,

(c) in the case of a licence referred to in *section 82 (h)* where the bye-law maker referred to in that section is a local authority, the local authority, or

(d) in the case of a licence referred to in *section 116 (2)*, the Board;

"Regulations of 2017" means the European Union (Recognition of Professional Qualifications) Regulations 2017 (S.I. No. 8 of 2017);

"related activity", in relation to a licensable activity, means an activity that is not a licensable activity but is an activity that reasonably needs to be carried out in conjunction with, or consequential upon, the carrying out of the licensable activity, and includes—

(a) the preparation or publication of any report, or

(b) the study, analysis or protection of any object.

(2) (a) Subject to *paragraph (b)*, a licence may be granted in respect of 2 or more licensable activities but only by the same licensing authority.

(b) *Paragraph (a)* shall not apply to a licence referred to in *section 116 (2)*.

(c) A licence may relate to 2 or more geographical areas or 2 or more parts of one or more than one geographical area.

Chapter 2

Applications for licence and grant, refusal, revocation or suspension of licence

Application for licence

150. (1) A person may make an application in the specified form to the licensing authority for the licence specified in the application in respect of the licensable activity specified in the application.

(2) Without prejudice to the generality of *subsection (3)* or *section 223* and subject to the Regulations of 2017, an application may require any of the following information to be provided in relation to any matter to which the application relates:

(a) information relating to the competence of the applicant or persons acting on his or her behalf;

(b) information relating to the previous record (if any) of the applicant (other than information relating to a spent conviction as construed in accordance with section 5 of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016), or persons acting on his or her behalf, of compliance or non-compliance with—

(i) a new authorisation or old authorisation,

(ii) an enforcement notice,

(iii) the provisions of this Act, or

(iv) the provisions of an enactment repealed by *section 7* ;

(c) without prejudice to the generality of *paragraph (b)*, information relating to whether the applicant, or a person acting on his or her behalf, has been—

(i) convicted of an offence under this Act or, under the law of a territory other than the State, convicted of an offence that corresponds to the first-mentioned offence,

(ii) convicted of an offence under an enactment repealed by *section 7* or, under the law of a territory other than the State, convicted of an offence that corresponds to the first-mentioned offence,

(iii) the subject of any civil proceedings under this Act or, under the law of a territory other than the State, the subject of proceedings that correspond to the first-mentioned proceedings,

(iv) the subject of any civil proceedings under an enactment repealed by *section 7* or, under the law of a territory other than the State, the subject of proceedings that correspond to the first-mentioned proceedings,

(v) given an enforcement notice under this Act, or, under the law of a territory other than the State, given a notice that corresponds to the first-mentioned notice,

(vi) the licensee under a relevant licence revoked or suspended under a relevant enactment;

(d) information relating to the manner in which the applicant or persons acting on his or her behalf proposes or propose to carry out the licensable activity, including any related activity, and his or her, or their, respective competence relevant to any such activity;

(e) information relating to the funding or supporting of the carrying out of the licensable activity, including any related activity;

(f) information relating to whether the applicant, or a person acting on his or her behalf, has been convicted on indictment of an offence relating to fraud or dishonesty or, under the law of a territory other than the State, convicted of an offence that corresponds to such conviction;

(g) a valid tax clearance certificate (or a copy thereof) in respect of the applicant.

(3) Where an application is made to the licensing authority, the authority may, by notice in writing given to the applicant and subject to the Regulations of 2017, require the applicant to provide in the specified form, or by affidavit, such additional information in relation to any matter to which the application relates as the authority reasonably considers necessary to assist him or her to determine the application.

(4) An application shall be accompanied by the prescribed fee (if any).

(5) The reference in *subsection (2)(b)* to non-compliance shall be construed to include a reference to aiding, abetting, counselling or procuring non-compliance or conspiring in non-compliance.

(6) The licensee under a licence shall not be entitled solely by reason of the licence to carry out the licensable activity concerned.

(7) In this section—

"relevant enactment" means this Act or an enactment repealed by this Act;

"relevant licence" means a licence granted under a relevant enactment.

Grant or refusal of licence, etc.

151. (1) Subject to *subsections (2)* to *(9)* and *section 153* , the licensing authority shall determine an application for a licence by—

(a) granting the licence in respect of all or any of the licensable activities specified in the application to the applicant subject to such conditions (if any) attached to the licence as the authority thinks appropriate, or

(b) giving a notice in writing to the applicant refusing to grant the licence in respect of all or any of the licensable activities specified in the application.

(2) When the licensing authority grants a licence to which conditions are attached, or refuses to grant a licence in respect of all or any of the licensable activities specified in the application for the licence, the authority shall, at the same time, give the applicant notice in writing of the reasons for the conditions or refusal, as the case may be.

(3) (a) Subject to *paragraph (b)*, the licensing authority shall, in determining an application, take into account all of the information given to the licensing authority under *section 150* in relation to the application but have particular regard to the protection of the archaeological, architectural or historic or other cultural or scientific interest, or the amenities, or any combination thereof, of a monument, wreck or archaeological object to which the application relates.

(b) Other factors that the licensing authority shall have regard to for the purposes of *paragraph (a)* are as follows:

(i) the outcome or result of any assessment of competence conducted pursuant to *section 152* , whether in respect of the applicant or any person acting on his or her behalf;

(ii) the provisions of any code of practice;

(iii) the provisions of—

(I) any international convention referred to in this Act, and

(II) any other treaty or international convention to which the State is a party in any case where the provisions are aimed at promoting or securing the protection of the archaeological, architectural or other historic heritage;

(iv) the public interest, including—

(I) the cultural, scientific, social or economic value of the licensable activity in respect of which the licence is sought, and

(II) the cultural, scientific, social or economic value of any development that the licensable activity is intended to facilitate or allow to proceed;

(v) any economic or other loss (including a loss of amenity) which would be incurred if the licence concerned were not granted;

(vi) the extent to which any existing lawful activity would be curtailed or discontinued if the licence concerned were not granted and, in that respect, for how long that lawful activity has been conducted;

(vii) the extent to which any prior lawful activity which had an economic or other benefit would again become lawful if the licence concerned were granted and, in that respect, for how long that prior lawful activity was conducted;

(viii) the extent to which there are, or are not, practical alternatives to what is intended to be achieved if the licence concerned is granted;

(ix) the extent to which the licensable activity is or would be the subject of regulation by another enactment or the subject of a scheme enforceable at law.

(4) Without prejudice to the generality of *subsection (1)(a)*, conditions which may be attached to a licence include any of the following:

(a) conditions relating to the manner in which the licensable activity and any related activity is to be carried out, including any specifications regarding the persons or categories of persons to carry out any such activity or their numbers and level of competence or the manner in which any such activity is to be commissioned or funded;

(b) conditions requiring the carrying out (whether prior to, during the course of, or subsequent to, the carrying out of the licensable activity the subject of the licence) of any other licensable activity, a related activity or any action or activity relating to the protection or recording of any element of historic heritage including, without prejudice to the generality of the foregoing, the doing of anything referred to in *section 28 (5)(a)* to *(d)*;

(c) conditions requiring that the licensable activity and any related activity are to be carried out in accordance with any information (including any information as revised by the licensing authority) regarding the manner in which it is proposed to carry out any such activity which was submitted with the application or subsequently submitted by the applicant;

(d) conditions requiring that the licensing authority or the State be indemnified by the applicant, or any other person specified in the licence, against any claim for loss or damages arising from the carrying out of the licensable activity or any related activity;

(e) without prejudice to the generality of *paragraph (d)*, conditions relating to the lodgement of bonds, in accordance with the prescribed procedures applicable to such lodgement and the use and return (whether in whole or in part) of such bonds, for the purpose of being applied (whether in whole or in part) towards—

(i) the satisfaction of a claim referred to in that paragraph, or

(ii) the continuation or completion of the carrying out of the licensable activity and any related activity due to the inability of the licensee to do that (whether by reason of the death or bankruptcy of the licensee or the insolvency or winding up of the licensee or any other reason);

(f) without prejudice to the generality of *paragraph (e)*, conditions relating to the provision of insurance cover for the purpose of the satisfaction (whether in whole or in part) of a claim referred to in *paragraph (d)*;

(g) conditions relating to requiring the applicant to submit reports to the licensing authority or other relevant bodies on the various stages of the carrying out of the licensable activity or related activity;

(h) conditions relating to the contents of reports referred to in *paragraph (g)*;

(i) conditions relating to requiring the applicant to submit copies to the licensing authority of reports on the various stages of the carrying out of the licensable activity or related activity in cases where those reports are required to be made under another enactment;

(j) conditions relating to advising the licensing authority of any subsequent adverse material change in the circumstances of the applicant, or of the licensable activity or any related activity, that will or may affect the satisfactory carrying out of that activity, including any period within which that activity is required to be carried out;

(k) conditions relating to the storage or treatment of objects which are or may be archaeological objects found during the course of carrying out a licensable activity and any related activity, including such storage or treatment after the carrying out of the activity;

(l) conditions relating to the safekeeping of records compiled during the course of carrying out the licensable activity and any related activity, including such safekeeping after the carrying out of the activity;

(m) conditions requiring the applicant to seek a new authorisation relating to any aspect of the licensable activity or related activity where the particulars of such aspect are not sufficiently known, at the time the application for the licence is made, for the licensing authority to give appropriate consideration to that aspect;

(n) conditions relating to the assignment of numbers to different aspects of the licensable activity or related activity;

(o) conditions relating to requiring the publication, in any medium, of a report on, or other account of, the licensable activity and any related activity or the dissemination of any information on any such activity and the results or other information or knowledge arising from it;

(p) conditions relating to requiring the restoration or repair of any land in the course of or at the conclusion of the carrying out of the licensable activity and any related activity and the subsequent conservation or protection of such land.

(5) (a) For the purposes of *paragraph (b)* of *subsection (4)*, a reference to "monument" in *section 28 (5)* includes a reference to any thing to which *section 136 (2)* applies.

(b) A reference in *subsection (4)* to "licensable activity" includes a reference to any activity (and whether or not the activity is a licensable activity) required to be carried out by reason of a condition under *paragraph (b)* of that subsection.

(c) A reference in *subsection (4)* to "applicant" includes a reference to any person engaged by or acting on behalf of the applicant including a person who is or will be in charge or responsible for any activity (and whether or not the activity is a licensable activity) required to be carried out by reason of a condition under *paragraph (b)* of that subsection.

(6) (a) A licence shall not operate to make lawful a licensable activity other than—

(i) a licensable activity specified by the applicant in his or her application and which is authorised under the licence, or

(ii) another licensable activity required to be carried out by reason of a condition under *paragraph (b)* of *subsection (4)* if, and only if, that condition specifies that such activity may be carried out without a licence that is in addition to the licence in which that condition is specified.

(b) A specification under *paragraph (a)(ii)* may be subject to such limitations as the licensing authority determines.

(7) Without prejudice to the generality of *subsection (1)(b)*, the licensing authority may refuse to grant a licence if the authority is satisfied that the carrying out of the licensable activity concerned (including any activity, whether or not the activity is a licensable activity, required to be carried out by reason of a condition under *paragraph (b)* of *subsection (4)*) is so much within the control or remit of one or more than one person other than the applicant for the licence that, in the interests of assisting in the satisfactory carrying out of that activity, that other person needs, or those other persons need, as the case may be, to make an application for the licence jointly with, or in place of, the applicant.

(8) Without prejudice to the generality of *subsection (1)(b)*, the licensing authority may refuse to grant a licence if the authority is satisfied that the non-compliance referred to in *section 150 (2)(b)* by the applicant or persons acting on his or her behalf, whether alone or in conjunction with other matters that the authority shall or may take into account, in accordance with the provisions of this Act, in determining the application, warrants such refusal.

(9) (a) The licensing authority shall, before determining the application for the licence, ensure that, if the relevant provisions of Part 5 of the Habitats Regulations apply, those provisions have been complied with and, if an AA has been carried out, that the licence, if granted, and the conditions (if any) attached to the licence are compatible with such AA.

(b) Where, in respect of the application for the licence, an EIA or an AA is required to be carried out—

(i) the licensing authority shall endeavour to co-ordinate the carrying out of the assessment (including any public participation that is required), and

(ii) the Minister may prescribe the procedures to facilitate the carrying out of the assessment (including any public participation that may be required).

(c) The Minister shall publish a notice of (and containing) his or her screening determination for AA made for the purposes of *paragraph (a)* in such form and manner as he or she considers appropriate including publication on the website of the Department, together with information on the procedure for seeking to have the decision judicially reviewed.

(10) (a) Subject to *paragraph (b)* and *subsection (11)*, a licence shall not be construed to authorise the demolition of a prescribed monument the existence of which was not known to the Minister before the licence was granted.

(b) *Paragraph (a)* shall not operate to prevent the demolition of a prescribed monument referred to in that paragraph pursuant to—

(i) other provisions of this Act, or

(ii) a licence granted, or amended, after the existence of the monument became known to the Minister.

(11) The demolition of a prescribed monument referred to in *subsection (10)* does not include—

(a) archaeological excavation,

(b) works (including dismantling) carried out to the monument for the purpose of repairing, restoring or protecting the monument, or

(c) the temporary or permanent removal of the monument for a purpose connected with—

(i) the repair of the monument,

(ii) the protection of the monument,

(iii) the preservation of the health or safety or welfare of members of the public, or

(iv) the provision of access, by members of the public, to the monument.

(12) Where the Minister proposes to grant a licence and is of the opinion that the licensable activity which, if the licence were granted, would be authorised to be carried out by the licence may have significance to another state, he or she may, at his or her discretion, consult with an authority in that state, being an authority that has responsibilities as regards historic heritage in that state, in order to obtain the authority's views (if any) on such activity.

Assessment of competence

152. (1) There may from time to time be prescribed procedures for—

(a) assessing (or, where appropriate, reassessing) the competence of an applicant in so far as such competence relates to the relevant activity,

(b) assessing (or, where appropriate, reassessing) the competence of any person who will be acting on behalf of an applicant in so far as such competence relates to the relevant activity, and

(c) a review, initiated by the applicant, of a decision on such competence where the applicant is aggrieved by the decision.

(2) Without prejudice to the generality of *subsection (1)*, the reference to procedures in that subsection includes a reference to the interviewing of an applicant, or any person who will be acting on his or her behalf if the licence is granted, by a person who falls within a prescribed category of persons, being persons who have competence in the licensable activity (whether by reason of qualifications attained or practical experience or a combination of both).

(3) The licensing authority may, at the authority's discretion, decline to consider any application for a licence until the applicant, or any person who will be acting on his or her behalf if the licence is granted, has had his or her competence assessed by way of the prescribed procedures.

(4) The prescribed procedures shall take into account, and not be inconsistent with, the Regulations of 2017.

(5) In this section, "relevant activity" means—

(a) a licensable activity,

(b) a related activity or any activity (whether or not the activity is a licensable activity) required to be carried out by reason of a condition under *paragraph (b)* of *subsection (4)* of *section 151* , or

(c) an activity (whether or not the activity is a licensable activity) required to be carried out by reason of a condition under *section 28 (2)(a)* or *(4)*.

Consultation

153. (1) The Minister shall consult the Board before the Minister grants a licence.

(2) The consultation referred to in *subsection (1)* shall consist of the Minister giving the Board a copy of the application for the licence concerned and all other information under *section 150* that the Minister receives that relates to the application.

(3) The Minister shall, before he or she grants a licence, consider any views on the merits of the application submitted to him or her by the Board if such views are submitted to the Minister —

(a) within the period prescribed for the purposes of this subsection for the class of licences (which may be identified by reference to a class of licensable activities) into which that licence falls, or

(b) if no such period is prescribed, not later than 21 days from the date of consultation or such longer period as may, in any particular case, be agreed between the Minister and the Board.

(4) The reference to an application in *subsection (3)* includes any documents submitted to the Minister by the applicant and which relate to the application, whether or not any of those documents were submitted to the Minister together with the application.

(5) This section shall not apply in the case of a new authorisation referred to in *section 151 (4)(m)*.

Revocation or suspension, etc., of licence

154. (1) Subject to *subsection (4)*, the licensing authority may, by notice in writing given to the licensee under a licence granted by the authority, revoke or suspend the licence, or vary the conditions (if any) attached to the licence, with effect from the date, or the occurrence of the event, specified in the notice for the purpose, if the authority is satisfied that—

(a) a condition attached to the licence has been contravened,

(b) a provision of this Act has been contravened in the course of carrying out the licensable activity,

(c) any of the information given to the authority under *section 150* in relation to the application for the licence was false or misleading in a material particular, or

(d) there has been an adverse material change in the circumstances of the licensee, or of the licensable activity or any related activity (including the site of the activity), that will or may affect the satisfactory carrying out of that activity, including any period within which that activity is required to be carried out.

(2) The licensing authority shall, in a notice under *subsection (1)* given to the licensee under a licence, state the reasons for giving the notice.

(3) A suspension under *subsection (1)* of a licence may relate only to part of the licensable activity or activities the subject of the licence and shall cease with effect on the date, or the occurrence of the event, specified in the notice for the purpose.

(4) Subject to *subsection (5)*, the licensing authority shall not give a notice under *subsection (1)* to the licensee under a licence unless, in the interests of procedural fairness, the authority has first—

(a) given the licensee a notice in writing stating the nature of the first-mentioned notice that the authority is minded to give to the licensee and the reason why the authority is so minded, and

(b) given the licensee a reasonable opportunity, in the circumstances concerned, to make representations in writing to the authority on what is stated in the notice first-mentioned in *paragraph (a)*.

(5) The licensing authority need not comply with *subsection (4)* in the case of the suspension of a licence if—

(a) the authority is satisfied that the end for which such suspension is sought is a matter of such urgency that the delay entailed in complying with that subsection may defeat that end, and

(b) the notice under *subsection (1)* effecting such suspension is accompanied by a notice stating—

(i) the end referred to in *paragraph (a)* and the authority's reason for such suspension, and

(ii) that the licensee may make representation in writing to the authority on that end and that reason.

Chapter 3

Assignment of licence

Assignment of licence

155. (1) This section applies where the licensee under a licence (in this section referred to as the "proposed assignor") wishes to assign the licence to another person (in this section referred to as the "proposed assignee").

(2) The proposed assignor and the proposed assignee shall make a joint application under *section 150 (1)* for the consent in writing of the licensing authority which granted the licence to the proposed assignor and, in the case of such application, *sections 150* and *152* and the other provisions of this Part applicable to an application and its determination under *section 151* shall, with all necessary modifications, apply accordingly.

(3) Upon the assignment of a licence in accordance with the consent referred to in *subsection (2)* —

(a) the assignee shall, not later than 21 working days after such assignment takes effect, give notice in writing to the licensing authority (and, if different) the Board of the date on which the assignment took effect, and

(b) the assignee shall become the licensee under the licence but without prejudice to the assignor's liability for acts done, or omissions made, in his or her capacity as the licensee under the licence, prior to the assignment of the licence, and the other provisions of this Act shall, with all necessary modifications, apply to the assignor and the assignee accordingly.

(4) The licensing authority may attach conditions to a consent referred to in *subsection (2)*.

(5) The assignment of a licence purporting to be effected without the consent referred to in *subsection (2)*, or in contravention of the conditions (if any) attached to the consent, shall be void.

(6) The Minister shall, as soon as is practicable after giving a consent referred to in *subsection (2)*, give notice in writing to the Board of such consent (including particulars of the licence, the assignee and the assignor concerned).

(7) Where the licensing authority attaches conditions to a consent referred to in *subsection (2)*, or refuses to give such consent, the authority shall, as soon as is practicable after making such decision, give the assignor and assignee or, as the case requires, the proposed assignor and the proposed assignee, notice in writing of the reasons for the conditions or refusal, as the case may be.

(8) References in this Act to the grant of a licence shall include references to the assignment of a licence in any case where the licence has been assigned or reassigned in accordance with this section.

Chapter 4

Appeals

Appeals officers

156. (1) The Minister, after having consulted with the Board on a proposed appointment under this subsection and considered its views (if any) on such appointment, may appoint one or more persons in respect of whom the Minister is satisfied that they have knowledge or experience relevant to a matter to which a licence may relate, or who are legal practitioners, to be appeals officers.

(2) An appeals officer shall hold office for a term of 5 years.

(3) An appeals officer shall be paid such remuneration (if any) and such allowances for expenses as the Minister specifies in writing with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform.

(4) An appeals officer may—

(a) resign from office by letter addressed to the Minister and the resignation shall take effect on the date on which the Minister receives the letter, or

(b) be removed from office by the Minister but only if, in the opinion of the Minister, he or she has become incapable through ill-health of effectively performing his or her functions under this Act or has committed stated misbehaviour.

(5) An appeals officer shall be independent in the performance of his or her functions under this Act.

Appeals

157. (1) Without prejudice to the generality of *section 223* , an applicant who is aggrieved by a decision of the licensing authority to—

(a) refuse to grant a licence,

(b) attach conditions to his or her licence,

(c) refuse to give a consent referred to in *section 155 (2)*, or

(d) attach conditions to a consent referred to in *section 155 (2)*,

may appeal in the specified form (which shall state the grounds of appeal relied upon by the applicant) against the decision to an appeals officer.

(2) The appeals officer to whom an appeal has been made shall give a copy of the appeal to the licensing authority who made the decision that is the subject of the appeal.

(3) The licensing authority shall give observations in writing relating to the grounds of appeal to the appeals officer and a copy of such observations to the appellant concerned and the appellant shall be afforded a reasonable opportunity to reply thereto.

(4) The appeals officer may, in determining an appeal—

(a) confirm the decision of the licensing authority, or

(b) recommend that the decision of the licensing authority should be set aside or be varied in such particulars as the officer considers appropriate,

and shall give notice in writing of his or her determination and the reasons for it to the appellant and the licensing authority.

(5) Where the licensing authority does not accept the recommendation of the appeals officer under *subsection (4)(b)*, the authority shall give notice in writing to the appeals officer and the appellant of his or her decision not to accept such recommendation and the reasons for not accepting the recommendation.

(6) An appellant may withdraw an appeal under this section by sending a notice of withdrawal to the appeals officer to whom the appeal was made.

(7) Time limits may be prescribed for the making and determination of appeals under this section.

PART 8

Inventories, Records and Research, Publication and Promotion of Public Knowledge and Awareness

Chapter 1

Inventories

Inventories

158. (1) The Minister may carry out, or cause to be carried out, such inventories of, or in relation to, historic heritage, World Heritage Property or property which is situated in the State that the Minister is satisfied may have the potential to become World Heritage Property as he or she considers appropriate.

(2) Without prejudice to the generality of *subsection (1)*, the Minister shall establish and maintain, or cause to be established and maintained, inventories in respect of each of the following:

(a) relevant things of archaeological interest;

(b) architectural heritage;

(c) wrecks of archaeological or historic interest.

(3) The carrying out of inventories under this section may include any form of investigation or recording relevant to or appropriate for the inventory concerned, including, without prejudice to the generality of the foregoing, searching for previously unidentified or unreported relevant things of a relevant interest.

(4) The Minister may do all or any of the following in respect of any inventory carried out under this section:

(a) determine the form, content and title or description of any such inventory;

(b) designate classes of the archaeological or architectural heritage or historic objects to be included in any particular inventory;

(c) amend, add to or delete from any such inventory.

(5) Subject to *subsections (6)* and *(7)*, the Minister may make information from inventories carried out under this section available to public authorities or local authorities or publish or disseminate information from any such inventory in such manner as he or she may determine.

(6) Subject to *subsection (7)* the Minister shall, in exercising the power under *subsection (5)*, have regard to the security, privacy and safety of persons or property that may be affected by the exercise of that power.

(7) Subject to *subsection (8)*, neither *subsection (5)* nor *(6)* shall be construed to enable the Minister to disclose personal data.

(8) *Subsection (7)* shall not apply to personal data—

(a) which are bibliographic references, or

(b) which credit a person (and with that person's consent thereto) with giving information forming part of an inventory carried out under this section.

(9) Nothing in this section shall be construed to prevent the Minister from combining 2 or more inventories referred to in this section into one inventory.

(10) In this section, "personal data" means personal data within the meaning of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016[11] on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

Chapter 2

Records

Protection of records in certain circumstances

159. (1) In this section—

"personal representative" has the meaning assigned to it under the Succession Act 1965 ;

"records" includes books, maps, plans, drawings, papers, files, photographs, films, micro-films and other micrographic records, sound recordings, pictorial records, magnetic tapes, magnetic discs, optical or video discs, other machine-readable records, and other documentary material in whatever form including in an electronic or other non-legible form which is capable of being converted into a permanent legible form;

"relevant archaeological objects" means any archaeological objects found or uncovered in the course of any work or activity carried out under, or held under or for the purposes of, a new authorisation or old authorisation;

"relevant records" means any records relating to the results or findings of any work or activity carried out under a new authorisation or old authorisation, or to the recording of such results or findings or the preparation of a report on them, but does not include records of a solely financial or administrative character.

(2) Subject to *subsection (3)*, where a company is ordered to be wound up or a resolution is passed for the voluntary winding up of a company or an individual dies and such company or individual, as the case may be, has or had, at the time of such order, resolution or death, as the case may be, relevant records or relevant archaeological objects in his or her possession, then the company (or, as appropriate, the liquidator or receiver thereof) or the personal representative of such individual, as the case may be, shall notify the relevant authority in the prescribed manner of the following matters:

(a) that the company has been ordered to be wound up or that a resolution for voluntary winding up has been passed or that the individual has died, as the case may be;

(b) the identity of the company or individual, as the case may be;

(c) the site of the relevant records or relevant archaeological objects;

(d) such other matters as may be prescribed.

(3) Notice under *subsection (2)* shall be given as soon as is practicable and, in any event, not later than 21 days after the order or resolution for winding up or the death of the individual, as the case may be, unless in the case of the death of the individual an administrator is appointed in respect of that individual's estate, in which case notice shall be given not later than 7 days after the appointment of such administrator.

(4) (a) Relevant records in the possession of a company which has been ordered to be wound up or in respect of which a resolution has been passed for its voluntary winding up or of a personal representative shall not be damaged, destroyed, disposed of, by a person or sold or transferred by a person from the possession or custody of the company (or, as appropriate, the liquidator or receiver thereof) or personal representative, as the case may be, except with the consent of the Minister and in accordance with any directions given by the Minister, who shall consult any other relevant authority for the purposes of this subsection prior to giving such consent or directions.

(b) *Paragraph (a)* shall apply to relevant archaeological objects as that paragraph applies to relevant records.

(5) *Subsection (4)* applies whether or not the order was made, resolution was passed or death occurred, as the case may be, before, on or after the commencement of this section.

(6) In *subsections (2)* and *(4)*, "relevant authority" means the person who issued the new authorisation or old authorisation concerned, but where there would be more than one such person, it shall be sufficient for notice under that subsection to be given to the Minister who shall inform the other relevant authorities of receipt of such notice.

Chapter 3

Research, publication and promotion of knowledge and awarenes

Definitions - *Chapter 3*

160. In this Chapter, "relevant authority" means—

(a) the Minister,

(b) the Board, or

(c) in the case of *section 162* only, the Commissioners.

Research and promotion of knowledge, interest and awareness

161. A relevant authority may promote or, if it appears to the authority appropriate to do so, assist other persons, as may be determined by the authority, in promoting—

(a) research into, or in connection with, historic heritage, or

(b) knowledge and awareness of, and interest in, historic heritage.

Publication

162. A relevant authority may compile, commission, publish or distribute or otherwise make available (with or without charge) leaflets, pamphlets, books, magazines, journals, reports or other documents and also aural and visual material (including film, video and still photography), whether in printed form or in an electronic or other non-legible form which is capable of being converted into a permanent legible form, or assist any other person in so doing, as may be appropriate in relation to any matter connected with the authority's functions under this Act.

Provision of assistance by relevant authority

163. (1) A relevant authority may, at the authority's discretion and only in so far as the authority considers it appropriate to do so, assist any person in the protection of any element of historic heritage.

(2) In this section, "assistance" includes advice and technical assistance as well as monetary or any other form of assistance.

Assistance may be subject to conditions

164. A relevant authority providing assistance referred to in *section 161* , *162* or *163* to a person may make the assistance subject to such conditions (if any) as are specified by the authority in a notice in writing given to the person by the authority and the person receiving the assistance shall comply with those conditions.

Copyright and related matters

165. A relevant authority may acquire and make use of copyright, patents, licences, privileges and concessions as may be appropriate in relation to any matter connected with the authority's functions under this Act or arising from such functions.

PART 9

Issuing of Guidelines and Matters Relating to Historic Heritage

Guidelines for EIAs

166. (1) The Minister, after consultation with such persons as he or she considers appropriate, may issue guidelines, not inconsistent with this Act or the EIA Directive, relating to dealing with historic heritage in the course of the preparation or carrying out of an EIA.

(2) (a) A person who is preparing material that is intended to be used for the purpose of assisting the preparation or carrying out of an EIA shall have regard to guidelines issued under *subsection (1)* in the course of the preparation of that material to the extent that the guidelines are relevant to that material or EIA, or both.

(b) The person to whom any material referred to in *paragraph (a)* is submitted shall also have regard to guidelines referred to in that paragraph in the person's consideration of that material for the purpose referred to in that paragraph.

(3) Nothing in this section or in guidelines issued under *subsection (1)* shall be construed to restrict the application of the EIA Directive in the State or any measures taken, or that may be taken, to implement the application of the EIA Directive in the State.

Guidelines for local authorities

167. (1) The Minister, after consultation with such other persons as the Minister considers appropriate, may issue guidelines, not inconsistent with this Act or any other enactment, to local authorities relating to their dealings with historic heritage, World Heritage Property, or property which is situated in the State that the Minister is satisfied may have the potential to become World Heritage Property, in the course of the performance of their functions under this Act or any other enactment.

(2) Without prejudice to the generality of *subsection (1)* and sections 28 and 52 of the Act of 2000, guidelines issued under that subsection may relate to objectives which fall within section 10(2)(c) of the Act of 2000 in so far as such objectives relate to the conservation and protection of historic heritage, World Heritage Property, or property which is situated in the State that the Minister is satisfied may have the potential to become World Heritage Property.

(3) Any guidelines issued under *subsection (1)* may relate to functions under this Act, or any other enactment, or both.

(4) A local authority, in the course of the performance of its functions under this Act, or any other enactment, or both, as appropriate, shall have regard to guidelines issued under *subsection (1)*.

Co-ordination and development of public policy on historic heritage

168. It shall be a general function of the Minister, in conjunction with the Council in so far as the Council's functions under section 6 of the Act of 1995 relate to historic heritage, to co-ordinate and promote the development of public policy on historic heritage.

Promotion of best practice in relevant disciplines and professions

169. (1) It shall be a general function of the Minister, in consultation with the Board, as appropriate, to promote best practice in disciplines or professions relating to the protection of historic heritage.

(2) For the purposes of *subsection (1)* but without prejudice to the generality of that subsection, the Minister, or the Board, as appropriate, may co-operate with or assist any body corporate or unincorporated body that has been established for the purpose of representing or regulating any discipline or profession referred to in that subsection.

Promotion of protection of historic heritage by public authorities

170. (1) It shall be a general function of the Minister, in consultation and co-operation with the Board, as appropriate, to promote the protection of historic heritage by public authorities in the course of the performance of their functions under any enactment other than this Act.

(2) For the purposes of *subsection (1)* but without prejudice to the generality of that subsection, the Minister may enter into an agreement with a public authority.

Public authority and local authority to have regard to historic heritage

171. (1) It shall be a general function of a public authority or local authority to have regard to historic heritage in the performance of their respective functions under any enactment.

(2) *Subsection (1)* shall not be construed to prejudice the generality of any provision of any enactment (including any other provision of this Act) that imposes a function on a public authority or local authority relating to historic heritage.

PART 10

Implementation and Enforcement

Chapter 1

General prohibitions

False or misleading statements, etc.

172. A person shall not knowingly or recklessly make a statement (whether orally or in writing), when providing information to another person pursuant to a provision of this Act, that is false or misleading in any material respect.

Knowingly supplying equipment, machinery or vehicles for use in offence under this Act

173. (1) A person shall not supply or provide to any other person (whether or not on a permanent or temporary basis and whether or not for gain or reward) any relevant item knowing or believing that the relevant item is intended to be used in the commission of an offence under this Act.

(2) In this section, "relevant item" means any equipment, tools, machinery or vehicle or any part thereof.

Obstruction

174. A person shall not interfere with, or otherwise obstruct (including obstruct by withholding information reasonably required by, or by knowingly or recklessly providing false or misleading information to)—

(a) the Minister,

(b) the Commissioners,

(c) the Board,

(d) a local authority,

(e) the Revenue Commissioners,

(f) an officer, agent or servant of any person referred to in any of *paragraphs (a)* to *(e)*,

(g) a member of An Garda Síochána, or

(h) a member of the naval service,

in the performance of their respective functions under this Act.

Chapter 2

Offences

Offences - general

175. (1) A person who contravenes any provision of this Act to which this subsection applies by virtue of *subsection (2)* shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding €10,000,000 or imprisonment for a term not exceeding 5 years or both.

(2) *Subsection (1)* applies to *sections 27 (1)*, *30* , *116 (2)*, *128 (2)*, *129 (2)*, *136 (2)* and *138 (2)*.

(3) A person who contravenes any provision of this Act to which this subsection applies by virtue of *subsection (4)* shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months or both, or

(b) on conviction on indictment, to a fine not exceeding €10,000 or imprisonment for a term not exceeding 3 years or both.

(4) *Subsection (3)* applies to *sections 43 (1)*, *82 (2)*, *99 (1)* and *(5)(b)*, *103 (1)*, *105 (6)*, *113 (1)* and *(2)*, *114 (1)*, *147* , *148 (1)*, *159 (4)*, *172* , *173* and *174* .

(5) A person who contravenes any provision of this Act to which this subsection applies by virtue of *subsection (6)* shall be guilty of an offence and liable on summary conviction to a class A fine.

(6) *Subsection (5)* applies to *sections 13 (2)(b)*, *(3)(a)* and *(4)(b)*, *101 (2)(b)*, *(3)(a)* and *(4)(b)*, *114 (4)(b)*, *139 (1)*, *(2)* and *(3)*, *142 (1)* and *(2)*, *148 (2)* and *(4)* and *204 (2)(b)*, *(3)(b)* and *(4)(b)*.

(7) A person who, without reasonable excuse, contravenes any provision of this Act to which this subsection applies by virtue of *subsection (8)* shall be guilty of an offence and shall be liable on summary conviction to a class A fine.

(8) *Subsection (7)* applies to *sections 159 (2)* and *217(2)*.

(9) A person who, without reasonable excuse, contravenes any provision of this Act to which this subsection applies by virtue of *subsection (10)* shall be guilty of an offence and shall be liable on summary conviction to a class E fine in the case of a first offence and, in the case of a second or any subsequent offence, a class C fine.

(10) *Subsection (9)* applies to *sections 76 (2)(b)* and *(d)*, *83 (6)(b)* and *85 (2)(b)* and *(d)*.

(11) Subject to *subsections (12)* and *(13)*, where there is a contravention by a person of *section 27 (1)* or *30* in such circumstances that it is reasonable to conclude that the person knew or suspected, or should have known or suspected, that the monument to which the contravention relates was a relevant thing of a relevant interest, that person shall be taken, for the purposes of a prosecution for an offence under *subsection (1)* for such contravention, to have so known or suspected.

(12) Subject to *subsection (13)*, *subsection (11)* shall not apply if, in the proceedings relating to the prosecution referred to in *subsection (11)*, the court or jury, as the case may be, is satisfied, having regard to all the evidence, that there is reasonable doubt as to whether the person referred to in *subsection (11)* knew or suspected as referred to in *subsection (11)*.

(13) (a) *Subsection (12)* shall be disregarded where, before the occurrence of the contravention referred to in *subsection (11)* by a person, the monument to which the contravention relates was the subject of—

(i) a Register action in respect of which specific notice was given to that person, or

(ii) an enforcement notice given to that person.

(b) *Section 8* shall apply to the interpretation of *paragraph (a)(i)* as that section applies to the interpretation of *Part 2* .

(14) Subject to *subsections (15)* and *(16)*, where there is a contravention by a person of *section 136 (2)* in such circumstances that it is reasonable to conclude that the person knew or suspected, or should have known or suspected, that the thing to which the contravention relates was a thing referred to in *paragraph (a)*, *(b)* or *(c)* of *section 136 (1)*, that person shall be taken, for the purposes of a prosecution for an offence under *subsection (1)* for such contravention, to have so known or suspected.

(15) Subject to *subsection (16)*, *subsection (14)* shall not apply if, in the proceedings relating to the prosecution referred to in *subsection (14)*, the court or jury, as the case may be, is satisfied, having regard to all the evidence, that there is reasonable doubt as to whether the person referred to in *subsection (14)* knew or suspected as referred to in *subsection (14)*.

(16)(a) *Subsection (15)* shall be disregarded where, before the occurrence of the contravention referred to in *subsection (14)* by a person, the thing to which the contravention relates was the subject of—

(i) a Register action in respect of which specific notice was given to that person, or

(ii) an enforcement notice given to that person.

(b) *Section 8* shall apply to the interpretation of *paragraph (a)(i)* as that section applies to the interpretation of *Part 2* .

(17) Where in a prosecution for an offence under *subsection (3)* for a contravention of *section 113 (1)* or *(2)* possession of an archaeological object is proved, it shall be presumed, until the contrary is proved, that the object was found in the State—

(a) in the case of a contravention of *section 113 (1)*, on or after 21 November 1994, or

(b) in the case of a contravention of *section 113 (2)*, on or after 26 February 1930.

(18) In proceedings relating to the prosecution of a contravention of this Act, it shall not be necessary for the prosecution to prove—

(a) where the prosecution relates to a relevant thing of a relevant interest which was, at the time that the contravention occurred, a registered monument or prescribed monument, knowledge, at that time, on the part of the person being prosecuted, that such thing was such a monument, or

(b) where the prosecution relates to an object which was, at the time that the contravention occurred, an archaeological object, knowledge, at that time, on the part of the person being prosecuted, that such object was an archaeological object.

(19) In proceedings relating to the prosecution for a contravention of *section 27 (1)* or *30* , where works carried out at, on, in, under, to, or within the immediate surroundings of, the relevant thing of a relevant interest to which the prosecution relates is relevant to the contravention, it shall not be necessary for the prosecution to prove that the person being prosecuted proposed, as referred to in *section 26 (1)*, to carry out such works in addition to proving that the person actually carried out such works.

Offences - regulations

176. A person who contravenes a provision of a regulation under this Act stated to be a penal regulation shall be guilty of an offence and liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.

Offences - bye-laws

177. A person who contravenes a bye-law made under *section 81* which is stated to be a penal bye-law shall be guilty of an offence and liable on summary conviction to a class E fine in the case of a first offence and, in the case of a second or any subsequent offence, a class C fine.

Continuing offences

178. (1) A person guilty of an offence under *section 175* for a contravention of *section 27 (1)*, *30* , *116 (2)*, *128 (2)* or *129 (2)* shall, on each day on which, after having been convicted of that offence, he or she continues to contravene that section, be guilty of a further offence and for each such further offence shall be liable—

(a) on summary conviction, to a class A fine, or

(b) on conviction on indictment, to a fine not exceeding €50,000.

(2) A person guilty of an offence under *section 175* for a contravention of *section 148 (1)*, *(2)* or *(4)*, *159 (2)* or *174* shall, on each day on which, after having been convicted of that offence, he or she continues to contravene that section, be guilty of a further offence and for each such further offence shall be liable—

(a) on summary conviction, to a class E fine, or

(b) in the case of an offence under *section 175* for a contravention of *section 148 (1)* or *174* , on conviction on indictment, to a fine not exceeding €10,000.

(3) Notwithstanding that an offence under *section 175* for a contravention of a relevant section is committed by a person by reason of a failure to do the act referred to in the relevant section within the period fixed by the relevant section for the purpose, the offence shall, after the conviction of the person for such offence, be deemed to continue on each day (in this section referred to as "daily further offence") subsequent to the day of such conviction until the day on which that act is done.

(4) A person guilty of one or more than one daily further offence shall be liable, for each daily further offence on summary conviction, to a class E fine.

(5) In *subsection (3)*, "relevant section" means *section 13 (2)(b)*, *101 (2)(b)*, *139 (1)(a)* or *(b)*, *(2)(b)* or *(3)(a)*, *142 (1)(a)* or *(b)* or *(2)(b)* or *217 (2)*.

Offences by bodies corporate

179. (1) Where an offence under this Act is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, shall be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, *subsection (1)* applies to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

Inferences from failure or refusal to account for detection device

180. (1) (a) *Paragraph (b)* applies where, in any proceedings against a person for the relevant offence, evidence is given that the accused—

(i) at any time before he or she was charged with the offence, on being questioned by a member in relation to the offence, or

(ii) when being charged with the offence or informed by a member that he or she might be prosecuted for it,

was requested by the member to account for any detection device that was—

(I) on his or her person,

(II) in or on his or her clothing or footwear,

(III) otherwise in his or her possession, or

(IV) in any place in which he or she was during any specified period,

and which the member reasonably believes may be attributable to the participation of the accused in the commission of the offence and the member informed the accused that the member so believes, and the accused failed or refused to give such account, being an account which, in the circumstances at the time, clearly called for an explanation from the accused when so questioned, charged or informed, as the case may be.

(b) The court, in determining whether the charge should be dismissed under Part IA of the Criminal Procedure Act 1967 or whether there is a case to answer and the court (or, subject to the judge's directions, the jury), in determining whether the accused is guilty of the relevant offence, may draw such inferences from the failure or refusal referred to in *paragraph (a)* as appear proper; and such failure or refusal may, on the basis of such inferences, be treated as, or as capable of amounting to, corroboration of any evidence in relation to which that failure or refusal is material.

(2) A person shall not be convicted of the relevant offence solely or mainly on an inference drawn from a failure or refusal to account for a matter to which *subsection (1)* applies.

(3) *Subsection (1)* shall not have effect unless—

(a) the accused was told in ordinary language when being questioned, charged or informed, as the case may be, what the effect of the failure or refusal to account for a matter to which that subsection applies might be, and

(b) the accused was afforded a reasonable opportunity to consult a solicitor before such failure or refusal occurred.

(4) Nothing in this section shall, in any proceedings—

(a) prejudice the admissibility in evidence of the silence or other reaction of the accused in the face of anything said in his or her presence relating to the conduct in respect of which he or she is charged in so far as evidence thereof would be admissible apart from this section,

(b) be taken to preclude the drawing of any inference from the silence or other reaction of the accused which could properly be drawn apart from this section, or

(c) be taken to preclude the drawing of any inference from a failure or refusal to account for the presence of any detection device which could properly be drawn apart from this section.

(5) The court (or, subject to the judge's directions, the jury) shall, for the purposes of drawing an inference under this section, have regard to whenever, if appropriate, the account of the matter concerned was first given by the accused.

(6) This section shall not apply in relation to the questioning of a person by a member unless it is recorded by electronic or similar means or the person consents in writing to it not being recorded.

(7) References in *subsection (1)* to evidence shall, in relation to the hearing of an application under Part IA of the Criminal Procedure Act 1967 for the dismissal of a charge, be taken to include a statement of the evidence to be given by a witness at the trial.

(8) In this section—

"member" means a member of the Garda Síochána;

"relevant offence" means a contravention of *section 148 (1)(f)*.

Chapter 3

Defences

Defence for relevant offences

181. (1) In proceedings for a relevant offence, it shall be a defence for the person charged with the offence to prove that he or she has made a payment in accordance with *section 88* , pursuant to a fixed payment notice issued in respect of that offence.

(2) In this section—

"fixed payment notice" shall be construed in accordance with *section 88 (1)*;

"relevant offence" has the meaning assigned to it by *section 86* .

Defence in respect of offences committed at sea or on water

182. Where a person is charged with an offence under this Act and the act alleged to be an offence took place at sea or on water, it shall be a defence for the person to show that the act was urgently required so as to—

(a) protect human life,

(b) protect persons from serious injury, or

(c) prevent serious damage to the environment.

Defence that act was carried out to protect or record elements of archaeological, architectural or historic heritage in immediate danger of destruction

183. (1) (a) *Paragraph (b)* applies where a person is charged with an offence under this Act in relation to any works or other activity (in this section referred to as the "works or activity concerned") required to be done, undertaken or carried out under and in accordance with a licence.

(b) It shall be a defence to show that, subject to *subsection (2)*, the works or activity concerned was done for the sole purpose of protecting, or recording, any archaeological object, monument to which general protection applies or monument to which special protection applies, wreck or any other element of historic heritage which was in the course of destruction or serious damage by reason of—

(i) natural causes, or

(ii) an action being taken by another person.

(2) The defence provided by *subsection (1)* shall not be available unless the person claiming it did or does all of the following:

(a) makes a report in accordance with the requirements of *subsection (3)* to the Minister and, in any event, not later than 72 hours from the commencement of the works or activity concerned;

(b) provides the Minister with such further information as he or she may reasonably require following receipt of a report under this subsection;

(c) does not continue the works or activity concerned, or direct that the works or activity concerned be continued, for any period longer than 96 hours or such lesser period as may be directed by the Minister on receipt of a report under this subsection;

(d) complies with any and all directions the Minister may give regarding the conduct of the works or activity concerned;

(e) makes available to the Minister any plans, drawings, photographs or notes made or taken in the course of the archaeological excavation (if any) concerned;

(f) complies with *sections 13* and *101* in so far as those sections are relevant in the course of the works or activity concerned.

(3) A report under *subsection (2)* shall—

(a) state the name and address of the person making it,

(b) describe the site of the works or activity concerned,

(c) set out the circumstances necessitating the works or activity concerned, and

(d) describe in general terms the deposits, features or structures found, uncovered, located or identified in the course of the works or activity concerned.

Defence that person was acting as servant or agent

184. It shall be a defence for a person charged with an offence under this Act to show that the act constituting the offence was the subject of a new authorisation or old authorisation granted, issued or given under this Act or an enactment repealed by *section 7* , as appropriate, to a person in relation to whom the person charged was acting as servant or agent provided—

(a) the act alleged to constitute the offence was carried out under and in accordance with such authorisation, and

(b) without prejudice to the generality of *paragraph (a)*, the carrying out of the act alleged to constitute the offence by way of the employment or engagement of a servant or agent was in accordance with such authorisation.

Defence in relation to finding of prescribed monuments

185. (1) Subject to *subsection (2)*, where a person is charged with an offence under this Act, being an offence relating to a failure to make a preliminary report in accordance with *section 13 (2) (b)*, it shall be a defence for the person to show that a reasonable person would not, in all the circumstances, have been aware that the prescribed monument concerned was such a monument.

(2) (a) The defence under *subsection (1)* shall not apply in respect of any act occurring after the person was given an enforcement notice in respect of the contravention concerned or after the person was otherwise advised or became aware that the provisions of *section 13 (2)(b)* applied to the finding of the prescribed monument.

(b) In *paragraph (a)*, "act" includes a continuing failure to make a preliminary report under *section 13 (2)(b)* in respect of the finding of the prescribed monument after the person was given such enforcement notice or the person being so advised or becoming so aware.

Defence in relation to relevant works

186. (1) Where a person is charged with the offence of contravening *section 27 (1)* in respect of a monument to which general protection applies (not being a registered monument or a wreck one hundred or more years old), it shall be a defence for the person to show that a reasonable person would not, in all the circumstances, have been aware that the monument was a monument to which general protection applies.

(2) The defence under *subsection (1)* shall not apply in respect of any act occurring after the person was given an enforcement notice in respect of the relevant works concerned or after the person was otherwise advised or became aware that the provisions of *section 27 (1)* applied.

Defence in relation to finding of archaeological objects

187. (1) Subject to *subsection (2)*, where a person is charged with an offence under this Act, being an offence relating to a failure to make a preliminary report in accordance with *section 101 (2)(b)*, it shall be a defence for the person to show that a reasonable person would not, in all the circumstances, have been aware that the archaeological object concerned was such an object.

(2) (a) The defence under *subsection (1)* shall not apply in respect of any act occurring after the person was given an enforcement notice in respect of the contravention concerned or after the person was otherwise advised or became aware that the provisions of *section 101 (2)(b)* applied to the finding of the archaeological object.

(b) In *paragraph (a)*, "act" includes a continuing failure to make a preliminary report under *section 101 (2)(b)* in respect of the finding of the archaeological object after the person was given such enforcement notice or the person being so advised or becoming so aware.

Chapter 4

General powers of officers, servants and agents, etc.

General powers of officers, servants and agents, etc., of relevant authority

188. (1) Where any function is conferred under this Act on a relevant authority, then, in so far as is reasonably necessary for the purpose of performing that function, the relevant authority or its officers, servants or agents acting on behalf of the relevant authority, or both, shall, for those purposes, have the power to—

(a) enter on, in, over or go across freely any land (including dwellings) and carry out works there or carry out all forms of survey, recording or investigation (including archaeological excavation),

(b) bring with him or her any equipment, machinery or materials as may be necessary and place them on or in any land (including dwellings),

(c) secure any site, area or object for further survey, recording or investigation (including archaeological excavation),

(d) be accompanied by any persons it would be reasonable for him or her to be accompanied by, and

(e) require any person encountered to give such assistance as is reasonable in the circumstances or provide any information about archaeological, architectural or other historic heritage as may reasonably be sought.

(2) A private dwelling shall not be entered under a provision of this Act without the consent of the occupier unless—

(a) a warrant from the District Court has been obtained under *subsection (3)* authorising such entry, or

(b) such entry is made under *section 203* .

(3) If a judge of the District Court is satisfied by information on oath of an officer of a relevant authority that it is reasonably necessary that a private dwelling be entered for the purposes of this Act, the judge may issue a warrant authorising such entry.

(4) A warrant issued under *subsection (3)* shall be expressed and operate to authorise named officers, servants or agents of the relevant authority concerned, accompanied (if appropriate) by other officers, servants or agents of that relevant authority or of other relevant authorities, or any other persons it would be reasonable for them to be accompanied by, at any time within one month from the issue of the warrant, on production of the warrant if so requested, to enter the dwelling by force if necessary, and to exercise all or any of the powers conferred under *subsection (1)* or under any provision of this Act to the appropriate purpose for which the warrant was sought.

(5) An officer, agent or servant of a relevant authority who, in the course of performing a function under this Act, enters land in private ownership which is not open to the public shall produce to anyone who may reasonably request it identification showing that he or she is such an officer, agent or servant or other evidence in writing to such effect.

(6) Where any provision of this Act refers to the placing by a relevant authority of a sign at or adjacent to a monument, the relevant authority or his or her officers, servants or agents may place or erect the sign in such a place and in such a manner as he or she considers appropriate in the circumstances.

(7) In this section, "relevant authority" means—

(a) the Minister,

(b) the Commissioners,

(c) the Board, or

(d) a local authority.

Chapter 5

Inspections

Powers of Minister in respect of inspections

189. (1) The Minister may inspect or cause to be inspected—

(a) a relevant thing of a relevant interest or a relevant thing that the Minister reasonably believes may be of such interest,

(b) a site where the Minister reasonably believes that a relevant thing referred to in *paragraph (a)* may be situated or may once have been situated,

(c) a site where a licensable activity (and whether or not a licence has in fact been granted for such activity) is being carried out,

(d) a site where a licensable activity (and whether or not a licence has in fact been granted for such activity) has been carried out, or

(e) any other site on land that the Minister reasonably believes ought to be inspected for purposes relating to the protection, investigation or recording of archaeological objects or architectural heritage or historic objects.

(2) In this section, "inspect" includes—

(a) the carrying out or undertaking of archaeological excavation,

(b) any other form of investigation or recording as may be reasonable and appropriate in the circumstances of a particular inspection, and

(c) the examination of any archaeological object or historic object in the site inspected or which was found or identified in that site.

Powers of Board in respect of inspections

190. (1) The Board may inspect, or cause to be inspected—

(a) any site where an archaeological object or historic object has been found or that the Board reasonably believes such an object may have been found, or

(b) any site where an archaeological object or historic object is situated or that the Board reasonably believes such an object may be situated.

(2) For the purposes of this section, "inspect" includes—

(a) the carrying out or undertaking of archaeological excavation,

(b) any other form of investigation or recording as may be reasonable and appropriate in the circumstances of a particular inspection, and

(c) the examination of any archaeological object or historic object in the site inspected or which was found or identified in that site.

Chapter 6

Provision supplementary to Chapters 4 and 5

Construction of *Chapters 4* and *5*

191. Neither *Chapter 4* nor *5* shall be construed in such a way as to relieve a person performing a function under that Chapter, being a function which consists of, or entails, the doing of a licensable activity, from the requirement, as specified in this Act, to have a licence in respect of such activity.

Signage

192. (1) The Minister may cause a sign, in the Irish language and the English language, to be placed at, or adjacent to, a monument for the purposes of providing guidance to members of the public, who are in the immediate vicinity of the monument, as to—

(a) their responsibilities as regards the monument whilst in such vicinity,

(b) the nature of the archaeological, architectural, artistic, historic or traditional interest of the monument, or

(c) both such responsibilities and such interest.

(2) The Minister may cause a sign referred to in *subsection (1)* to be removed or removed and replaced.

(3) In any proceedings for an offence under this Act relating to a monument, it shall not be a defence for the person charged with the offence to prove that, at the time the offence was committed, the monument was not the subject of a sign referred to in *subsection (1)*.

Chapter 7

Enforcement notices

Definitions - *Chapter 7*

193. In this Chapter—

"enforcement notice" means a notice under *section 195 (2)*;

"relevant authority", in relation to a relevant provision, means—

(a) subject to *paragraphs (b)* to *(h)*, the Minister,

(b) if the relevant provision is *section 75 (3)(b)* where the national monument referred to in that section is a national monument (M), the Minister or, with the consent of the Minister, the Commissioners,

(c) if the relevant provision is a bye-law made under *section 81 (1)*, the Commissioners,

(d) if the relevant provision is—

(i) *section 99 (1)* or *(5)*, *101 (2)(b)*, *(3)(a)* or *(4)(b)*, *103 (1)*, *105 (6)*, *109 (1)*, *113 (1)* or *(2)*, *114 (1)* or *(4)(b)*, *116 (2)*, *128 (2)* or *129 (2)*, the Board, or

(ii) a procedure prescribed under *section 110* , the Board,

(e) if the relevant provision is *section 75 (3)(b)* where the national monument referred to in that section is a national monument (LA), the local authority concerned,

(f) if the relevant provision is a bye-law made under *section 81 (2)*, the local authority concerned,

(g) if the relevant provision is a provision of a new authorisation or old authorisation, the person who granted, issued or gave the authorisation or, if applicable in the case of an old authorisation, the successor to that person, or

(h) if the relevant provision is *section 174* , the person concerned referred to in *paragraph (a)*, *(b)*, *(c)*, *(d)*, *(e)*, *(f)*, *(g)* or *(h)* of that section;

"relevant court", in relation to an enforcement notice given to a person, shall be construed in accordance with *section 194* ;

"relevant event", in relation to an enforcement notice given to a person, means—

(a) the taking by the person of the steps specified in the notice,

(b) the cancellation of the notice under *section 195 (5)*,

(c) the determination by the relevant court of an application under *section 195 (6)* made on foot of the notice, or

(d) in so far as a direction specified in the notice is concerned, the determination by the relevant court of an application under *section 196 (1)* made on foot of that direction,

whichever first occurs;

"relevant provision" means—

(a) a provision of this Act, or

(b) a provision of a new authorisation or old authorisation.

High Court's and Circuit Court's jurisdiction under this Chapter

194. (1) The High Court shall have jurisdiction to hear and determine proceedings under this Chapter in relation to an enforcement notice given to a person where the relevant provision concerned is a provision referred to in *section 175 (2)* or *(4)*.

(2) Subject to *subsection (3)*, the Circuit Court shall have jurisdiction to hear and determine proceedings under this Chapter in relation to an enforcement notice given to a person where the relevant provision concerned is a provision other than a provision referred to in *section 175 (2)* or *(4)*.

(3) The Circuit Court for the purposes of *subsection (2)* shall be—

(a) subject to *paragraph (b)*, the Circuit Court for the circuit in which the monument, archaeological object, historic object, wreck, licensable activity or other thing to which the enforcement notice concerned relates is situated at the time the application concerned is made, or

(b) if the whereabouts of the person given that notice, or the whereabouts of the monument, archaeological object, historic object, wreck, licensable activity or other thing to which the notice relates, or both, are unknown at the time the application concerned is made, the Dublin Circuit Court.

Issue of enforcement notices

195. (1) For the purposes of assisting in the protection of historic heritage and assisting in ensuring that licensable activities are carried out under and in accordance with licences through effective measures to deal with a contravention of a relevant provision, *subsection (2)* applies where the relevant authority is of the opinion (in this section referred to as the "relevant opinion") that a person—

(a) has contravened a relevant provision,

(b) is contravening a relevant provision, or

(c) has contravened a relevant provision in circumstances that make it likely that the contravention will continue or be repeated.

(2) Without prejudice to *section 154* or the other provisions of this Part, the relevant authority may give the person a notice in writing, accompanied by a copy of this Chapter—

(a) stating the person's name and address or other identifying particulars of the person,

(b) stating the relevant opinion,

(c) specifying the relevant provision as to which he or she is of that opinion and the reasons why he or she is of that opinion,

(d) directing the person to take such steps as are specified in the notice to remedy the contravention or, as the case may be, the matters occasioning it, and

(e) specifying a period (ending not earlier than the period specified in *section 196 (1)* within which an application under that section to cancel a direction specified in the notice may be made) within which those steps must be taken, being a period reasonable in the circumstances.

(3) The steps specified in an enforcement notice to remedy any contravention or matter to which the notice relates may be framed so as to afford the person to whom it is given a choice between different ways of remedying the contravention or matter, as the case may be.

(4) Where a person to whom an enforcement notice has been given makes an application under *section 196 (1)* to cancel a direction specified in the notice, the steps specified in the notice, in so far as they relate to that direction, need not be taken by the person pending the determination, withdrawal or abandonment of the application.

(5) The relevant authority may cancel an enforcement notice by notice in writing given to the person concerned.

(6) Where a person fails to take the steps specified in an enforcement notice given to him or her, the relevant authority may, on notice to that person, apply in a summary manner to the relevant court for an order requiring the person to take those steps (or to take such varied or other steps for the like purpose as may be specified in the order), and the court—

(a) may—

(i) make the order sought,

(ii) make the order sought subject to such variations to those steps as may be specified in the order, or

(iii) make the order sought subject to such other steps for the like purpose as may be specified in the order,

or

(b) may dismiss the application,

and, whether *paragraph (a)* or *(b)* is applicable, may make such order as to costs as it thinks fit in respect of the application.

(7) Without prejudice to the generality of *subsection (2)(d)*, the steps referred to in that subsection specified in an enforcement notice given to a person may be or include any, or any combination of, the following steps:

(a) in so far as is practicable, that any monument, archaeological object, historic object, wreck or other thing in respect of which the contravention concerned took place or is taking place is restored to its condition prior to the commencement of the contravention;

(b) that any licensable activity—

(i) is carried out under and in accordance with a license pertaining to that activity, or

(ii) ceases to be carried out unless or until it is carried out under and in accordance with a licence pertaining to that activity;

(c) the carrying out of any works, including such repairs or other works to a monument, archaeological object, historic object, wreck or other thing or such archaeological excavation or recording as are specified in the notice;

(d) the payment of such amount to the relevant authority concerned so that the relevant authority may undertake, or have undertaken on the relevant authority's behalf, any of the matters referred to in *paragraph (c)*;

(e) the carrying out of any works referred to in *paragraph (c)* under the superintendence and control of the relevant authority concerned to the extent specified in the notice and at the expense of such person;

(f) the return or surrender to a specified person, or a person falling within a specified category of persons, or the placing in a specified place, or a place falling within a specified category of places, of any—

(i) archaeological object,

(ii) historic object,

(iii) wreck, or

(iv) cultural property designated (whether by the State or another state party within the meaning of *section 125*) for the purposes of the Convention (within the meaning of *section 125*),

whether or not such person or place is located within or outside the State.

Application for cancellation of direction specified in enforcement notice

196. (1) A person to whom an enforcement notice has been given may, on notice to the relevant authority, not later than 30 days after being given the notice, apply to the relevant court for the cancellation of any direction specified in the notice and, on such an application, the court may—

(a) cancel the direction,

(b) confirm the direction, or

(c) vary the direction,

and, whether *paragraph (a)*, *(b)* or *(c)* is applicable, make such order as to costs as it thinks fit in respect of the application.

(2) The decision of the relevant court on a direction specified in an enforcement notice shall be final save that—

(a) if the relevant court is the Circuit Court, by leave of that Court or the High Court, an appeal by the relevant authority or the person concerned, as the case may be, against the decision shall lie to the High Court on a point of law, or

(b) if the relevant court is the High Court, by leave of that Court or the Court of Appeal, an appeal by the relevant authority or the person concerned, as the case may be, against the decision shall lie to the Court of Appeal on a point of law.

Injunctions

197. (1) This section applies where a relevant authority—

(a) has given an enforcement notice to a person (in this section referred to as the "relevant person"), and

(b) is of the opinion that the nature or gravity of the possible contravention referred to in *section 195 (1)* of a relevant provision that founded the giving of that notice to the relevant person warrants, in the interest of protecting the monument, archaeological object, historic object, wreck or other thing to which the notice relates, the relevant person doing, or ceasing to do, an act (in this section referred to as the "relevant act") until the occurrence of a relevant event.

(2) The relevant authority may make an application by motion to the relevant court for an interim or interlocutory order directing the relevant person to do, or cease to do, the relevant act until the occurrence of the relevant event and the relevant court may—

(a) make the order sought subject to such conditions (if any) as are specified in the order, or

(b) dismiss the application,

and, whether *paragraph (a)* or *(b)* is applicable, make such order as to costs as it thinks fit in respect of the application.

(3) Where an order has been or may be sought under this section, any other action, whether under this Act or otherwise, may be commenced or continued, whether by way of civil or criminal proceedings or otherwise.

(4) This section shall not be construed to prevent the relevant court from making such interim or interlocutory order as it thinks fit during the course of, or at the conclusion of, any proceedings before the court pursuant to *section 195 (6)* or *196* .

Burden of proof

198. For the avoidance of doubt, it is hereby declared that the burden of proof in relation to all matters arising during the hearing of proceedings under this Chapter shall be on the balance of probabilities.

Other provisions of this Part not prejudiced

199. An action taken under this Chapter shall not be construed to prejudice the generality of any action that may be taken under any other Chapter of this Part and, accordingly, an action may be taken under this Chapter in relation to a person or thing concurrently with, or before or after, an action taken under another Chapter of this Part in relation to that same person or thing.

Rules of court

200. Rules of court may make provision for the expedition of the hearing of proceedings under this Chapter.

Chapter 8

Arrest, search and seizure powers

Powers under this Chapter are additional to other powers

201. The powers of any person under this Chapter are in addition to, and not in substitution for, powers arising under the Criminal Law Act 1997 or any other enactment or otherwise.

Definition - *Chapter 8*

202. In this Chapter, "relevant body" means—

(a) An Garda Síochána, or

(b) the Naval Services of the Defence Forces.

Powers of arrest, search and seizure of relevant bodies

203. (1) A member of a relevant body may arrest without warrant any person committing an offence, or any person whom the member believes to be committing an offence, under this Act.

(2) A member of a relevant body may arrest without warrant any person on suspicion of having committed or having been involved in committing an offence under this Act if the member has reasonable grounds to believe that such person may abscond.

(3) A member of a relevant body, accompanied, if appropriate, by any other person it would be reasonable for him or her to be accompanied by, may—

(a) search land, premises, vehicles, vessels and aircraft without warrant for the purpose of investigating the commission or intended commission of offences under this Act,

(b) seize and detain any thing found in the course of such search which may be evidence of the commission or intended commission of an offence under this Act or which appears to be held contrary to this Act or photograph or otherwise record (including, in the case of documents, make copies of) any such thing or secure it for future examination or retrieval, or

(c) secure any site, area, vessel, vehicle or aircraft (other than a private dwelling) for future search.

(4) A private dwelling shall not be entered under this section without the consent of the occupier unless a warrant from the District Court has been obtained under *subsection (5)*.

(5) If a judge of a District Court is satisfied by information on oath of a member of An Garda Síochána that there are reasonable grounds for suspecting that evidence of, or relating to, the commission or intended commission of an offence under this Act is to be found in or under any private dwelling, the judge may issue a warrant.

(6) A search warrant issued under *subsection (5)* shall be expressed, and shall operate, to authorise named members of An Garda Síochána, accompanied, if appropriate by other members of An Garda Síochána, or any other persons it would be reasonable for them to be accompanied by, at any time or times within one month from the issue of the warrant, on production of the warrant if so requested, to—

(a) enter the dwelling by force if necessary,

(b) seize any thing found in or under the private dwelling which may be evidence of the commission or intended commission of an offence under this Act or which appears to be held contrary to this Act or photograph or otherwise record (including, in the case of documentation, make copies of) any such thing or secure it for future examination or retrieval,

(c) secure the dwelling for future search, or

(d) exercise all or any of the powers conferred by this section.

(7) The Police (Property) Act 1897 and, where appropriate section 25 of the Criminal Justice Act 1951 shall apply to any thing seized under this section (including anything seized by a member of the naval service) as that Act or such section 25, as the case may be, applies to property which has come into the possession of An Garda Síochána in the circumstances mentioned in that Act concerned.

Provisions supplementary to *section 203*

204. (1) A member of a relevant body may at any time accompany, or otherwise assist, any officer, agent or servant of the Minister, the Commissioners, the Board or a local authority in the performance of any of their functions under this Act.

(2) (a) A member of a relevant body may request any person encountered in the course of exercising powers under this Chapter to render such assistance as may be reasonable in the circumstances or to give his or her name and address.

(b) A person the subject of a request referred to in *paragraph (a)* shall comply with the request.

(3) (a) Where a member of a relevant body suspects that a person has committed an offence under this Act and so alleges to the person, the member may request the person to give his or her name and address.

(b) A person the subject of a request referred to in *paragraph (a)* shall comply with the request.

(4) (a) Where a member of a relevant body—

(i) has reasonable grounds for believing that an offence under this Act has been, or is being, committed,

(ii) finds any person in possession of an archaeological object, historic object, monument or wreck, and

(iii) has reasonable grounds for believing that the thing referred to in *subparagraph (ii)* is a thing in respect of which the offence referred to in *subparagraph (i)* took place or is taking place,

he or she may request the person to give an account of how he or she came to have the thing in his or her possession.

(b) A person the subject of a request referred to in *paragraph (a)* shall comply with the request.

(5) *Subsection (4)* shall not have effect unless the person concerned, when required to give the account, was told in ordinary language by the member concerned of the relevant body what the effect of the failure or refusal might be.

(6) Any information given in compliance with a requirement under *subsection (4)* shall not be admissible in evidence against that person in any proceedings, civil or criminal, other than proceedings for an offence for a contravention of *paragraph (b)* of that subsection.

Chapter 9

Evidentiary and procedural matters

Inferences, evidential burdens and onuses of proof arising in certain circumstances

205. (1) Where, in any proceedings for an offence under this Act, the person charged with the offence claims in his or her defence that he or she has been granted, given or issued a new authorisation, the burden of showing that the authorisation has been granted, given or issued shall lie with the defendant.

(2) (a) In any proceedings for an offence under this Act, *prima facie* evidence may be given that no new authorisation was granted, given or issued which would have acted to render lawful the matter alleged to be an offence by means of the production to the court of a copy, authenticated as provided for in *paragraph (b)*, of any such portion or extract of any register or record of new authorisations as relates to or covers the relevant period.

(b) Any such copy produced to the court shall be authenticated by the signature of an officer of the Minister, the Commissioners or the Board, or of a local authority, as appropriate, but it shall not be necessary to prove such signature or that the person signing is such an officer or has been authorised to so authenticate.

(3) Where, in any proceedings for an offence under this Act, the person charged with the offence claims in his or her defence that he or she has given a relevant and valid notice or other document under this Act, the burden of showing that such notice or other document was given shall rest with the defendant.

(4) (a) In any proceedings for an offence under this Act, *prima facie* evidence may be given that no notice or other document was given by or on behalf of the person charged with the offence which would have acted to render lawful the matter alleged to be an offence by means of the production to the court of a copy, authenticated as provided for in *paragraph (b)*, of any such portion or extract of any register or record of notices or other documents received by the Minister, the Commissioners or the Board, or local authority, as appropriate, as relates to or covers the relevant period.

(b) Any such copy produced to the court shall be authenticated by the signature of an officer of the Minister, the Commissioners or the Board, or of a local authority, as appropriate, but it shall not be necessary to prove such signature or that the person signing is such an officer or has been authorised to so authenticate.

Evidentiary presumptions

206. (1) The Minister may, by notice in writing, authorise an officer of the Minister to give, on the Minister's behalf, a certificate under this section.

(2) In proceedings, a certificate signed by the Minister, or an authorised person, containing a relevant statement shall, without proof of the signature of the person purporting to sign the certificate or that the person was the Minister or an authorised person, as the case may be, be evidence, unless the contrary is shown, of the matters the subject of the relevant statement.

(3) A certificate under this section may contain 2 or more relevant statements.

(4) In this section—

"authorised person" means an officer of the Minister authorised under *subsection (1)* by the Minister to give, on the Minister's behalf, a certificate under this section;

"relevant statement" means a statement specified in *Schedule 8* .

Vicarious liability

207. (1) Anything done by a person in the course of his or her employment shall, in any proceedings brought under this Act, be treated, for the purposes of this Act, as done also by that person's employer, whether or not it was done with the employer's knowledge or approval.

(2) Anything done by a person as agent for another person, with the authority (whether express or implied and whether precedent or subsequent) of that other person shall, in any proceedings brought under this Act, be treated as done also by that other person.

(3) Subject to *subsection (4)*, in proceedings brought under this Act against an employer in respect of an act alleged to have been done by an employee of the employer, it shall be a defence for the employer to prove that the employer took such steps as were practicable to prevent the employee—

(a) from doing that act, or

(b) from doing in the course of his or her employment acts of that description.

(4) *Subsection (3)* shall not apply to proceedings relating to an application for an order under *section 197* or any other civil proceedings, whether under this Act or otherwise.

(5) In this section—

"contract of employment" means a contract of employment or of service or of apprenticeship, whether the contract is express or implied and, if express, whether it is oral or in writing;

"employee" means a person who has entered into or works under (or, where the employment has ceased, entered into or worked under) a contract of employment and references, in relation to an employer, to an employee shall be construed as references to an employee employed by that employer;

"employer", in relation to an employee, means the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment, and includes—

(a) a person (other than an employee of that person) under whose control and direction an employee works, and

(b) where appropriate, the successor of the employer or an associated employer of the employer.

Procedural provisions applicable in case of offence involving sea or sea bed or land covered by water

208. (1) Proceedings for an offence under this Act, committed in an area consisting of part of the sea or the sea bed may be taken, and the offence may for all incidental purposes be treated as having been committed, in any site in the State.

(2) Proceedings for an offence under this Act, committed in an area consisting of land covered by water and which is situated in 2 or more District Court districts may be taken, and the offence may for all incidental purposes be treated as having been committed, in any of those districts.

(3) *Subsection (2)* shall, with all necessary modifications, apply to a circuit to which a Circuit Court judge is assigned as that subsection applies to a District Court district.

Summary proceedings

209. An offence under this Act may be prosecuted summarily by—

(a) the Minister,

(b) the Board in the case of an offence relating to an archaeological object or historic object, or

(c) the local authority concerned in the case of an offence relating to a national monument (LA).

Time limit for offences that may only be brought by summary proceedings

210. (1) Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act 1851 , summary proceedings for an offence under this Act to which that provision applies may be instituted—

(a) within 12 months after the date on which the offence was committed, or

(b) within 6 months after the date on which evidence sufficient, in the opinion of the person instituting the proceedings, to justify proceedings comes to that person's knowledge,

whichever is the later, provided that no such proceedings shall be commenced later than 2 years after the date on which the offence concerned was committed.

(2) For the purposes of *subsection (1)(b)*, a certificate signed by or on behalf of the person initiating the proceedings as to the date on which evidence referred to in that subsection came to his or her knowledge shall be evidence of that date and, in any legal proceedings, a document purporting to be a certificate under this subsection and to be so signed shall be admitted as evidence without proof of the signature of the person purporting to sign the certificate, unless the contrary is shown.

(3) *Subsection (1)* and *(2)* shall not be construed to prejudice the generality of section 7 of the Criminal Justice Act 1951 .

Chapter 10

Costs of prosecutions and civil proceedings and recovery of debts

Costs of prosecutions and applications for injunctions

211. (1) The court shall, unless it is satisfied that there are special and substantial reasons for not so doing—

(a) where a person is convicted of an offence under this Act, or

(b) where a person is the subject of an order under *section 197* ,

order the person to pay the Minister, the Commissioners, the Board, the local authority or other person, as appropriate, the costs and expenses of the action, measured by the court.

(2) Where costs or expenses are to be paid to the Minister, the Commissioners, the Board or a local authority, they shall include any such costs or expenses reasonably incurred by any of those persons in relation to the investigation, detection and prosecution of the offence or the seeking of the order, as appropriate, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers.

Recovery of debts

212. (1) Where—

(a) it is a condition of a new authorisation that the person to whom the authorisation is granted, issued or given shall reimburse the relevant body who granted, issued or gave the authorisation for the amount of any costs or expenses incurred as a result of granting, issuing or giving the authorisation, or

(b) a court under this Part orders a person to pay an amount (howsoever described) to a relevant body,

the relevant body concerned may recover, as a simple contract debt in any court of competent jurisdiction, from such person the amount due.

(2) (a) Where a person subject to a charge under *subsection (1)* is in default of such payment, the relevant body concerned may apply the specified interest to the amount outstanding.

(b) In this subsection, "specified interest" means—

(i) a rate of interest equivalent to the fixed rates of interest penalty payable under section 4 (2) of the Prompt Payment of Accounts Act 1997 , or

(ii) such other lower rate as may be prescribed by the Minister for Public Expenditure, National Development Plan Delivery and Reform.

(3) *Subsection (1)* shall not operate to prejudice the generality of the Fines (Payment and Recovery) Act 2014 .

(4) In this section, "relevant body" means—

(a) the Minister,

(b) the Commissioners,

(c) the Board, or

(d) a local authority.

Chapter 11

Codes of practice

Interpretation - *Chapter 11*

213. (1) In this Chapter—

"code of practice" means a code of practice published under *section 214 (1)*, and includes part of such code;

"external code" means a code of practice which is not a code of practice published under *section 214 (1)*.

(2) (a) Nothing in this Chapter or in a code of practice published under *section 214 (1)* shall be construed to prejudice the operation of an external code.

(b) Nothing in an external code of practice shall be construed to prejudice the operation of this Chapter or a code of practice published under *section 214 (1)*.

Codes of practice

214. (1) The Minister may prepare and publish a code of practice, not inconsistent with this Act, for the purposes of—

(a) setting out the manner in which he or she proposes to perform any function conferred upon him or her under a provision of this Act, or

(b) providing practical guidance to persons, or a class of persons, to assist the persons, or the class of the persons, as the case may be, to comply with a provision of this Act that applies to the persons, or the class of the persons, as the case may be.

(2) Where the Minister wishes to prepare and publish a code of practice under *subsection (1)*, he or she shall, before publication—

(a) make available, in such manner as he or she considers appropriate, a draft of the code to such persons as the Minister considers appropriate having regard to the matters to which the code relates,

(b) invite the persons to whom he or she has made the draft available to make representations in writing on it to the Minister within a period determined by the Minister, being a period of not less than 30 days from the date of making the draft available to those persons,

(c) consider the representations (if any) received, and

(d) make any modifications that he or she considers appropriate to the draft.

(3) Where the Minister publishes a code of practice under *subsection (1)*, he or she shall cause a notice to that effect to be published in *Iris Oifigiúil* and such notice shall specify—

(a) the provision of this Act to which the code relates,

(b) if the code is for the purposes referred to in *subsection (1)(b)*, the persons or class of persons for whom the code is providing guidance,

(c) the date from which the code has effect, and

(d) the site where a copy of the code may be viewed, inspected or purchased.

(4) The Minister shall keep posted on the website of the Department a copy of each code of practice published under *subsection (1)*, as the code is in force from time to time, on and from the date on which the code has effect.

(5) The Minister shall arrange for that part of the website of the Department which contains a code of practice pursuant to *subsection (4)* to ordinarily be accessible by members of the public.

(6) Subject to *subsection (7)*, the Minister may amend or revoke a code of practice published under *subsection (1)*.

(7) *Subsection (2)* shall, with all necessary modifications, apply to a code of practice that the Minister proposes to amend or revoke under *subsection (6)* as *subsection (2)* applies to a code of practice that the Minister proposes to publish under *subsection (1)*.

(8) Where the Minister amends or revokes a code of practice published under *subsection (1)*, the Minister shall cause a notice to that effect to be published in *Iris Oifigiúil* specifying—

(a) the code to which the amendment or revocation, as the case may be, relates and, if applicable, particulars of the amendment,

(b) if the code is for the purposes referred to in *subsection (1)(b)*, the persons or class of persons in respect of whom the code is so amended or revoked, as the case may be, and

(c) the date from which the amendment or revocation, as the case may be, shall have effect.

Admissibility of codes of practice

215. A document bearing the seal of the Minister and purporting to be a code of practice or, where such a code has been amended under *section 214* , the code as so amended shall be admissible in evidence—

(a) in any proceedings before a court or tribunal, or

(b) in any other proceedings concerning the provision of this Act to which the code relates.

Chapter 12

Miscellaneous

Taking possession of objects, etc., being held or treated, etc., in a manner in contravention of this Act, etc.

216. (1) Where a relevant authority is satisfied that—

(a) a relevant item has been, is being, or is likely to be, treated in a manner that contravenes a provision of this Act, or

(b) the ownership or right to possession of a relevant item is in dispute,

the relevant authority may, by a notice in writing given to a relevant person, direct the relevant person to take the relevant item into his or her possession on behalf of the relevant authority.

(2) A relevant person who is given a direction under *subsection (1)* shall comply with the direction in accordance with the terms of the direction.

(3) A relevant authority who has given a direction under *subsection (1)* in respect of a relevant item referred to in *paragraph (b)* of that subsection shall, as soon as is practicable after the dispute concerned referred to in that paragraph has been settled (whether by legal proceedings or otherwise), cause the relevant item to be given to its owner or the person with the right to its possession as determined by that settlement.

(4) The relevant authority who has caused a relevant item to be taken into possession by a relevant person under this section may—

(a) direct in writing the relevant person to place the item in a site which, in the opinion of the relevant authority, is suitable having regard to the needs of protecting or ensuring the safety of that item, or

(b) direct in writing the relevant person to take such steps as are reasonable in the circumstances to be taken to protect or ensure the safety of the item.

(5) A relevant person who is given a direction under *subsection (4)* shall comply with the direction in accordance with its terms.

(6) In this section—

"relevant authority" means—

(a) the Minister, or

(b) the Board;

"relevant item" means—

(a) an archaeological object,

(b) an historic object,

(c) a monument, or

(d) a wreck;

"relevant person", in relation to a relevant authority, means an officer, servant or agent of the relevant authority.

Minister may require certain information regarding title to lands

217. (1) The Minister may, for any purposes connected with this Act, by notice in writing given to a person who is the occupier of any land, or to a person receiving (whether for himself or herself or for another) rent from any land, require the person to inform him or her, within a specified period ending not less than 14 days after being so required, of particulars of the estate, right or interest by virtue of which he or she occupies such land or receives such rent, as the case may be.

(2) A person who is given a notice under *subsection (1)* shall comply with the requirement specified in the notice within the period specified in the notice for the purpose.

PART 11

Miscellaneous

Sharing of information

218. (1) A relevant body may, for the purposes of the protection and proper management of historic heritage and consistent with the functions that the body may perform, and to the extent that is necessary and proportionate for such purposes, share information (including personal data within the meaning of *section 158 (10)*) with another relevant body in accordance with law.

(2) The Minister may prescribe a body for the purposes of *paragraph (l)* of the definition of "relevant body" in *subsection (3)* where he or she is satisfied that the body has one or more than one function that is relevant to the protection and proper management of historic heritage.

(3) In this section, "relevant body" means—

(a) a Department of State,

(b) a local authority,

(c) the Council,

(d) An Garda Síochána,

(e) the Office of Public Works,

(f) the National Museum of Ireland,

(g) Tailte Éireann,

(h) the Revenue Commissioners,

(i) the Coroner Service,

(j) the Defence Forces,

(k) any authority in another state that has responsibilities as regards historic heritage in that state, or

(l) any other body prescribed under *subsection (2)* for the purposes of this paragraph.

Delegation of functions under *section 77(1)* of Minister

219. (1) The Minister may by order delegate to the Commissioners any or all of the Minister's functions under *section 77 (1)*.

(2) Where a delegation is made under *subsection (1)*—

(a) a function delegated by the delegation shall be performed by the Commissioners in their own name but subject to the general superintendence and control of the Minister,

(b) subject to *paragraph (a)* and *subsection (3)*, the delegation shall operate, so long as it continues in force, to confer on and vest in the Commissioners each function delegated by the delegation,

(c) a function delegated by the delegation shall be performed by the Commissioners subject to any conditions stated in the order concerned under this section,

(d) any obligation or liability undertaken by the Commissioners consequent upon the performance by the Commissioners of a function to which the delegation relates shall be of the same force and effect as if the obligation or liability, as the case may be, had been undertaken by the Minister,

(e) a function of the Minister delegated by the delegation shall, notwithstanding the delegation, continue to be vested in the Minister but shall be so vested concurrently with the Commissioners so as to be capable of being performed by either the Minister or the Commissioners,

(f) the delegation shall not remove or derogate from the responsibility of the Minister to Dáil Éireann or as a member of the Government for the performance of the functions of the Minister thereby delegated, and

(g) the Commissioners shall, by virtue of this paragraph and notwithstanding any other enactment, have the power to perform each function delegated by the delegation in accordance with any conditions stated in the order concerned under this section.

(3) The Minister may by order amend or revoke an order under this section including an order under this subsection.

Delegation of functions of Board

220. (1) The Board may by instrument in writing delegate to the Director any or all of the Board's functions under this Act except *section 3 (2)*, this subsection and *subsection (4)*.

(2) Subject to *subsection (3)*, where a delegation is made under *subsection (1)*—

(a) a function delegated by the delegation shall be performed by the Director in his or her own name but subject to the general superintendence and control of the Board,

(b) subject to *paragraph (a)* and *subsection (4)*, the delegation shall operate, so long as it continues in force, to confer on and vest in the Director each function delegated by the delegation,

(c) a function delegated by the delegation shall be performed by the Director subject to any conditions stated in the instrument concerned under this section,

(d) any obligation or liability undertaken by the Director consequent upon the performance by the Director of a function to which the delegation relates shall be of the same force and effect as if the obligation or liability, as the case may be, had been undertaken by the Board,

(e) a function of the Board delegated by the delegation shall, notwithstanding the delegation, continue to be vested in the Board but shall be so vested concurrently with the Director so as to be capable of being performed by either the Board or the Director, and

(f) the Director shall, by virtue of this paragraph and notwithstanding any other enactment, have the power to perform each function delegated by the delegation in accordance with any conditions stated in the instrument concerned under this section.

(3) Where a delegation is made under *subsection (1)* and the instrument concerned under this section expressly so permits, the Director may, by notice in writing, appoint a person to perform a function delegated by the delegation in accordance with such conditions (if any) as are specified in the notice.

(4) The Board may by instrument in writing amend or revoke an instrument under this section made by the Board including an instrument under this subsection.

(5) In this section, "function" includes a function under this Act of the Board as a recipient of information.

Ways of giving notice, etc.

221. (1) Without prejudice to the generality of *paragraphs (c)* and *(d)* of the definition of "owner" in *section 2 (1)*, a notice that is required to be given to a person under this Act shall be addressed to the person concerned by name, and may be so given to the person in one (or more than one) of the following ways:

(a) by delivering it to the person;

(b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;

(c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;

(d) by electronic means, in a case in which the person has given notice in writing to the person giving the notice concerned of his or her consent to the notice (or notices of a class to which the notice belongs) being served on, or given to him or her, in that manner.

(2) Where the name of a particular person referred to in *subsection (1)* cannot be ascertained after reasonable efforts to ascertain such name have been unsuccessful, a notice that is required under this Act to be given to the person may be addressed to "the occupier", "the owner" or "the person in charge", as the case requires.

(3) A notice given under *subsection (1)* shall be deemed to have been received by the person—

(a) in the case of prepaid registered post, or other recorded delivery, on the third working day after the day on which it was so sent,

(b) in the case of electronic mail, when the sender's facility for the reception of electronic mail generates a message confirming the receipt of the electronic mail, and

(c) in the case of a facsimile machine, when the sender's facsimile machine generates a message confirming the successful transmission of the total number of pages of the notice.

(4) For the purposes of this section, a company shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.

(5) In this section, "notice" includes any other document that is required to be given to a person under this Act.

Minister and notices, etc., under this Act

222. A provision of this Act which requires the Minister to give a notice or other document to the owner of land or a chattel shall not apply—

(a) if the Minister is the sole owner of the land or chattel or if the land or chattel is in the guardianship of the Minister pursuant to a provision of this Act, or

(b) to the extent that the Minister is the owner of the land or chattel or to the extent that the land or chattel is in the guardianship of the Minister pursuant to a provision of this Act.

Power to specify form of documents

223. (1) Subject to *sections 13 (5)*, *27 (3)*, *101 (5)* and *157 (1)* (but without prejudice to the generality of the relevant authority's power under this subsection), the relevant authority may specify the form of documents required for the purposes of this Act as he or she thinks appropriate.

(2) (a) The relevant authority's power under *subsection (1)* may be exercised in such a way as to specify 2 or more forms of any document (whether in paper or electronic form or both) referred to in that subsection, whether as alternatives, or to provide for particular circumstances or particular cases, as the relevant authority thinks appropriate.

(b) Without prejudice to the generality of *paragraph (a)*, as the relevant authority thinks fit, his or her power under *subsection (1)* may be exercised in such a way as to specify one form for the purposes of 2 or more applications which may be made under this Act.

(3) The form of a document specified under this section shall be—

(a) completed in accordance with such directions and instructions as are specified in the document,

(b) accompanied by such other documents (including a statutory declaration) as are specified in the document, and

(c) if the completed document is required to be provided to—

(i) the relevant authority,

(ii) another person on behalf of the relevant authority, or

(iii) any other person,

so provided in the manner (if any) specified in the document.

(4) In this section, "relevant authority" means—

(a) subject to *paragraphs (b)* and *(c)*, the Minister,

(b) in the case of the specified form referred to in *section 101 (4)(a)* or *section 114 (1)* or *(4)(a)*, the Board, and

(c) in the case of the specified form referred to in *section 150 (1)* or *(3)* or *157 (1)*, the licensing authority (within the meaning of *section 149*) concerned.

Revocation of certain old authorisations - transitional

224. The following old authorisations shall be deemed to be revoked on the 2nd anniversary of the commencement of *section 7* :

(a) a consent granted under section 2(3)(b) of the Act of 1987;

(b) a licence granted under section 3(5)(d)(ii) of the Act of 1987.

Review of operation of Act

225. (1) The Minister shall, not later than three years after the enactment of this Act, carry out a review of the operation of this Act and thereafter carry out further such reviews so that the interval between any two successive reviews is not greater than five years.

(2) The Minister may consult with such persons as he or she considers appropriate in carrying out a review.

(3) The Minister shall, upon the completion of the carrying out of a review, make a report thereon and—

(a) lay the report before each House of the Oireachtas, and

(b) publish the report in such manner as he or she considers appropriate.

PART 12

Consequential Amendments to Other Enactments

Amendment of section 26 of Act of 1869

226. Section 26 of the Act of 1869 is amended, in subsection (2), by the substitution of "Subject to *section 66 (2)* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*,where any church" for "Where any church".

Amendment of section 7 of Tourist Traffic Act 1952

227. Section 7 of the Tourist Traffic Act 1952 is amended by the substitution of the following subsection for subsection (2):

"(2) The Board shall not exercise its powers under this section in relation to—

(a) a national monument within the meaning of *section 74* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*, or

(b) a monument (within the meaning of *section 2* of that Act) in the course of becoming such national monument.".

Amendment of section 270 of Defence Act 1954

228. Section 270 of the Defence Act 1954 is amended, in subsection (2), by the substitution of the following paragraph for paragraph (d):

"(d) the interference with any monument within the meaning of *section 2* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*, or with any picturesque or valuable timber or other national features of exceptional interest or beauty.".

Saving for monuments - sanitary services

229. The Local Government (Sanitary Services) Act 1964 is amended by the substitution of the following section for section 20:

"20. Nothing in this Act shall restrict, prejudice or affect the functions of the Minister for Housing, Local Government and Heritage, the Commissioners of Public Works in Ireland or a local authority under the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* in relation to a national monument within the meaning of *section 74* of that Act.".

Saving for monuments - derelict sites

230. The Derelict Sites Act 1990 is amended by the substitution of the following section for section 33:

"33. Nothing in this Act shall restrict, prejudice or affect the functions of the Minister for Housing, Local Government and Heritage, the Commissioners of Public Works in Ireland or a local authority under the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* in relation to a national monument within the meaning of *section 74* of that Act.".

Amendment of section 49 of Act of 1993

231. Section 49 of the Act of 1993 is amended by the substitution of the following subsection for subsection (6):

"(6) This section shall not apply to a wreck which is a monument within the meaning of *section 2* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*.".

Amendment of Heritage Act 1995

232. The Heritage Act 1995 is amended—

(a) in section 2(1)—

(i) by the substitution of the following definition for the definition of "archaeological object":

"'archaeological object' has the meaning assigned to it by *section 2* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*;",

(ii) by the substitution of the following definition for the definition of "archaeology":

"'archaeology' has the meaning assigned to it by *section 2* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*;",

(iii) by the substitution of the following definition for the definition of "monument";

"'monument' has the meaning assigned to it by *section 2* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*;",

and

(iv) by the substitution of the following definition for the definition of "wreck":

"'wreck' has the meaning assigned to it by *section 2* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*.",

and

(b) in section 6—

(i) in subsection (1), by the insertion of "relevant things of a relevant interest (within the meaning of *section 2* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*)" after "including", and

(ii) in subsection (2), by the deletion of "the National Monuments Advisory Council, the Historic Monuments Council or".

Amendment of section 1 of Occupiers' Liability Act 1995

233. Section 1 of the Occupiers' Liability Act 1995 is amended, in subsection (1), in the definition of "recreational user", by the substitution of "within the meaning of *section 74* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*" for "pursuant to section 16 (1) of the National Monuments Act, 1930 ".

Amendment of Act of 1997

234. The Act of 1997 is amended—

(a) in section 2, in subsection (1), by the substitution of the following definition for the definition of "archaeological object":

"'archaeological object' has the meaning assigned to it by *section 2* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*;",

and

(b) in section 29, in subsection (3)(b)(i), by the substitution of "*Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*" for "National Monuments Acts 1930 to 1994 ".

Amendment of Act of 2000

235. The Act of 2000 is amended—

(a) by the substitution of the following section for section 260:

"Saving for monuments

260. Nothing in this Act shall restrict, prejudice or affect—

(a) the functions of the Minister for Housing, Local Government and Heritage under the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* in relation to a national monument within the meaning of *section 74* of that Act, or

(b) the functions of the Commissioners under the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* in relation to such a monument.",

and

(b) in the Fourth Schedule, by the substitution of the following paragraph for paragraph 12:

"12. The proposed development would injure, interfere with or adversely affect a registered monument within the meaning of *section 2* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*.".

Amendment of Schedule 4 to Valuation Act 2001

236. Schedule 4 to the Valuation Act 2001 is amended, in paragraph 11, by the substitution of "monument (within the meaning of *section 2* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*)" for "national monument".

Amendment of Act of 2001

237. The Act of 2001 is amended—

(a) in Schedule 12, in Part 1, by the substitution of "*Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*" for "National Monuments Acts 1930 to 2004 ", and

(b) in Schedule 14A, by the substitution of the following for reference No. 40:

"

40	Making bye-laws in relation to any national monument (LA) within the meaning of *section 74* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*.	*Section 83* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*.

".

Amendment of Maritime Safety Act 2005

238. The Maritime Safety Act 2005 is amended—

(a) in section 5, by the deletion of the definition of "National Monuments Acts",

(b) in section 6, in subsection (1)(i)(III)(B), by the substitution of "*Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*" for "National Monuments Acts",

(c) in section 8, in subsection (1)(c)(ii), by the substitution of "*Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*" for "National Monuments Acts",

(d) in section 9, in subsection (1), by the substitution of "*Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*" for "National Monuments Acts" in each place that it occurs, and

(e) in section 38, in subsection (1)(d), by the substitution of "*Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*" for "National Monuments Acts 1930 to 2004 ".

Amendment of section 29 of Disability Act 2005

239. Section 29 of the Disability Act 2005 is amended, in subsection (3), in the definition of "heritage site", in paragraph (a), by the substitution of " *section 2* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*" for "the National Monuments Acts 1930 to 2004".

Amendment of section 28 of Prisons Act 2007

240. Section 28 of the Prisons Act 2007 is amended—

(a) in subsection (1), by the substitution of the following paragraph for paragraph (c):

"(c) subject to subsections (2) and (3), shall not require a new authorisation within the meaning of *section 2* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (other than a licence referred to in *section 116* of that Act) or any other authorisation.",

and

(b) in subsection (3), by the substitution of "prescribed monument within the meaning of *section 2* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*" for "national monument within the meaning of the said Acts 1930 to 2004".

Amendment of section 4 of Environment (Miscellaneous Provisions) Act 2011

241. Section 4(4) of the Environment (Miscellaneous Provisions) Act 2011 is amended—

(a) in paragraph (o), by the deletion of "and" last occurring,

(b) in paragraph (p), by the deletion of "regulations." and the substitution of "regulations, and", and

(c) by the insertion of the following paragraph after paragraph (p):

"(q) a licence granted under *section 151* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*.".

Amendment of section 19 of Forestry Act 2014

242. Section 19 of the Forestry Act 2014 is amended, in subsection (2), by the substitution of the following paragraph for paragraph (d):

"(d) within a registered monument within the meaning of *section 2* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*,".

Amendment of section 202 of Minerals Development Act 2017

243. Section 202 of the Minerals Development Act 2017 is amended, in subsection (2)(b), by the substitution of the following subparagraph for subparagraph (vii):

"(vii) monuments (within the meaning of *section 2* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*);".

PART 13

Miscellaneous amendments

Chapter 1

Amendment of Foreshore Act 1933

Amendment of section 1E of Foreshore Act 1933

244. Section 1E of the Foreshore Act 1933 , as amended by section 175 of the Maritime Area Planning Act 2021 , is amended—

(a) in subsection (5)(a), by the substitution of "Subject to subsection (3), the relevant Minister" for "The relevant Minister",

(b) by the insertion of the following subsections after subsection (5):

"(5A) (a) Subject to paragraph (c), the MARA may, at its discretion and whether of its own initiative or at the request of the relevant Minister or the applicant under section 3 concerned, treat a relevant application (F) as a relevant application (M) if it is satisfied that it has received all the information that would be required under the Act of 2021 if the relevant application (F) were a relevant application (M) and, in any such case, the provisions of the Act of 2021 (including section 117(3) of that Act) shall, with all necessary modifications, apply to the relevant application (F) so treated.

(b) Where, pursuant to paragraph (a), the MARA is treating a relevant application (F) as a relevant application (M), the MARA may adopt any determination that has been made, before that treatment, under the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011) in respect of the relevant application (F).

(c) Paragraph (a) shall not apply to a relevant application (F) made before the applicable date where the MARA is satisfied that—

(i) a material change is being sought to the application by the applicant, or

(ii) material information provided in, or accompanying, the application was submitted more than 2 years before the applicable date.

(5B) The MARA may, if it thinks it appropriate to do so, give reasons for any decision by it to decline to treat a relevant application (F) as a relevant application (M) and, in any such case, those reasons may form the basis of consultations between the relevant Minister and the applicant under section 3 concerned as to the appropriate course of action to be taken with regard to the relevant application (F).",

and

(c) in subsection (6), by the insertion of the following definitions:

"'applicable date' means the date of commencement of *section 244* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*;

'relevant application (F)' means an application under section 3 for the grant of a licence;

'relevant application (M)' means a licence application within the meaning of the Act of 2021.".

Chapter 2

Amendment of Lough Corrib Navigation Act 1945

Amendment of Lough Corrib Navigation Act 1945 - insertion of sections 16A and 16B

245. The Lough Corrib Navigation Act 1945 is amended by the insertion of the following sections after section 16:

"Certain powers of Board of Trustees

16A. (1) The Board of Trustees have power to acquire, hold, manage, maintain, mortgage, charge, lease, licence and dispose of land or an interest in land.

(2) The Board of Trustees may prepare a scheme for the establishment of a system of tolls, quayage, wharfage and licensing in relation to the Navigation.

(3) The Board of Trustees may delegate the performance of any of their functions (other than their functions under subsection (1) or (2)) to the chief executive of—

(a) Galway City Council,

(b) Galway County Council, or

(c) Mayo County Council.

Power of Board of Trustees to carry out works in relation to Navigation and to enter land

16B. (1) (a) The Board of Trustees may for the purposes of the performance of their functions—

(i) enter on any land and carry out on the land work in relation to the Navigation or property held by them for the purpose of the Navigation,

(ii) enter on any land and occupy it or otherwise make use of it for the purpose of carrying out work on other land in relation to the Navigation or property referred to in subparagraph (i), or

(iii) enter on any land for the purpose of gaining access to, inspecting or surveying the Navigation, property referred to in subparagraph (i) or other land referred to in subparagraph (ii),

and do on any such land all such other things as are, in their opinion, ancillary or reasonably necessary for the performance of their functions.

(b) Subject to subsection (2), not less than 14 days before exercising any power under paragraph (a) (other than subparagraph (iii) of that paragraph), the Board of Trustees shall give to any owner or occupier of the land concerned whose identity and whereabouts can be ascertained by the Board of Trustees by the taking of reasonable steps a notice in writing stating their intention to enter on the land and the purposes for which the entry is intended to be made and specifying the other powers of the Board of Trustees proposed to be exercised.

(c) A person to whom a notice has been given under this subsection may, not later than 14 days after the giving of the notice, apply, on notice to the Board of Trustees, to the judge of the District Court having jurisdiction in the District Court district in which the land the subject of the notice is situated for an order prohibiting the entry and, upon the hearing of the application, the judge may, if he or she so thinks proper, prohibit the entry or specify conditions to be complied with by the person making the entry.

(d) Where a judge of the District Court prohibits under this subsection a proposed entry on land, it shall not be lawful for any person to enter on the land under paragraph (a).

(e) Where a judge of the District Court specifies under this subsection conditions to be complied with by a person entering on land under paragraph (a), every person who enters on the land under that paragraph shall comply with the conditions so specified.

(2) (a) Where, in the opinion of the Board of Trustees—

(i) the exercise of a power conferred on them by subsection (1) is urgently required for the purpose of preventing or minimising injury, loss or damage to persons or property, and

(ii) it is not reasonably practicable to comply, in relation to such exercise, with paragraph (b) of that subsection,

the Board of Trustees may exercise the power without having complied, in relation to such exercise, with that paragraph.

(b) Subject to paragraph (c), before exercising a power by virtue of paragraph (a), the Board of Trustees shall give to any owner or occupier of the land whose identity and whereabouts can be ascertained by the Board of Trustees by the taking of reasonable steps a notice in writing of their intention to enter on the land, of the purposes for which the entry is intended to be made and of the other powers of the Board of Trustees proposed to be exercised.

(c) Where, in the opinion of the Board of Trustees, it is not reasonably practicable to comply with paragraph (b), the Board of Trustees may exercise a power by the virtue of paragraph (a) without having complied therewith and, as soon as may be thereafter, shall give to any owner or occupier of the land concerned whose identity and whereabouts can be ascertained by the Board of Trustees by the taking of reasonable steps a notice in writing specifying the powers of the Board of Trustees exercised and the purposes of such exercise.

(3) (a) Where a person suffers loss, injury or damage or incurs expenditure in consequence of the exercise by the Board of Trustees of a power conferred on them by this section, the Board of Trustees shall pay to him or her compensation in respect of the loss, injury, damage or expenditure and the amount of the compensation shall, in default of agreement, be determined by arbitration under and in accordance with the Lands Clauses Acts and, for the purposes of those Acts, the Board of Trustees shall be deemed to be the promoter of the undertaking, and, for the purposes of such determination, those Acts shall apply with any other necessary modifications and are incorporated (except in so far as they are inconsistent with and subject to any amendments or modifications, express or implied, thereof effected by this Act) with this Act.

(b) In assessing the compensation payable to a person under paragraph (a), regard shall be had to any benefit to any property of the person that arises or may reasonably be expected to arise from the exercise of the power concerned or any other power under this section by the Board of Trustees and, in particular but without prejudice to the generality of the foregoing, shall, in the case of a claim for compensation in relation to water rights, have regard to the extent of the exercise of the water rights during the period of 20 years immediately before the exercise of the power concerned by the Board of Trustees and to any alternative water supply provided for the person by the Board of Trustees.”.

Chapter 3

Amendment of Planning and Development Act 2000

Amendment of section 182A of Act of 2000

246. Section 182A of the Act of 2000 is amended—

(a) in subsection (1), by the substitution of "Subject to subsection (1B) and section 182AA, where" for "Where",

(b) in subsection (1A)(b) and (c), by the insertion of "in the maritime area" after "owner of the land", and

(c) by the insertion of the following subsection after subsection (1A):

"(1B) (a) Subject to paragraph (b), the proposed development shall not include any development (which may be all or part of such proposed development and which is referred to in this subsection as the 'development concerned') in the maritime area where a licence (referred to in this subsection as the 'licence concerned') under section 3 of the Act of 1933 has been granted, on or before the commencement of *section 246* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*, in respect of the development concerned.

(b) Where the proposed development required, as appropriate—

(i) an environmental impact assessment,

(ii) an appropriate assessment, or

(iii) both an environmental impact assessment and an appropriate assessment,

to be carried out, paragraph (a) shall not apply to the development concerned unless that assessment was, or those assessments were, as the case may be, carried out before the grant of the licence concerned.

(c) Where paragraph (a) applies to the development concerned, the provisions of section 3 of the Act of 1933 relevant to the licence concerned shall be deemed to apply to the carrying out of the proposed development.".

Disapplication of section 182A of Act of 2000

247. The Act of 2000 is amended by the insertion of the following section after section 182A:

"182AA. Section 182A shall not apply to development comprising or for the purposes of electricity transmission where such development is the subject of an application for permission made to the Board under section 291.".

Disapplication of Chapters II and III of Part XXI of Act of 2000

248. The Act of 2000 is amended by the insertion of the following section after section 278:

"278A. (1) Subject to subsection (2), Chapters II and III shall not apply to strategic infrastructure development in respect of which—

(a) development permission has not been granted, and

(b) the prospective applicant concerned has, on or before 1 October 2022, entered into consultations with the Board under section 37B.

(2) Subsection (1) shall only apply to strategic infrastructure development the subject of an application for permission for such development made to the Board, before 1 October 2024, under section 37E.".

Amendment of section 280 of Act of 2000

249. Section 280 of the Act of 2000 is amended—

(a) in subsection (2)—

(i) in paragraph (b), by the deletion of "or" last occurring,

(ii) in paragraph (c)(ii), by the substitution of "1933, or" for "1933.", and

(iii) by the insertion of the following paragraph after paragraph (c):

"(d) subject to subsection (3), on the commencement of *section 249* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*—

(i) that was the subject of either—

(I) a lease made, on or after 1 October 2017, under section 2 of the Act of 1933 authorising the lessee to do, for the purposes of the development, one or more than one of the acts referred to in that section, or

(II) a licence granted, on or after 1 October 2017, under section 3 of the Act of 1933 authorising the licensee to do, for the purposes of the development, one or more than one of the acts referred to in that section,

(ii) for which permission under Part III was not required, and

(iii) that—

(I) has been completed,

(II) has commenced but has not been completed, or

(III) has not commenced.",

and

(b) by the insertion of the following subsection after subsection (2):

"(3) Subsection (2) shall cease to apply to any development referred to in paragraph (d) of that subsection which has not been completed on or before the 5th anniversary of the date of commencement of *section 249* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*.".

Amendment of section 281 of Act of 2000

250. Section 281(2)(b) and (d) of the Act of 2000 is amended by the insertion of "in the maritime area" after "owner of land".

Amendment of section 285 of Act of 2000

251. Section 285 of the Act of 2000 is amended—

(a) in subsection (2) —

(i) in paragraph (b), by the deletion of "or" last occurring,

(ii) in paragraph (b)(ii), by the substitution of "1933, or" for "1933.",

and

(b) by the insertion of the following paragraph after paragraph (b):

"(c) subject to subsection (3), on the commencement of *section 251* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*—

(i) that was the subject of either—

(I) a lease made, on or after 1 October 2017, under section 2 of the Act of 1933 authorising the lessee to do, for the purposes of the development, one or more than one of the acts referred to in that section, or

(II) a license granted, on or after 1 October 2017, under section 3 of the Act of 1933 authorising the licensee to do, for the purposes of the development, one or more than one of the acts referred to in that section,

(ii) for which permission under Part III was not required, and

(iii) that—

(I) has been completed,

(II) has commenced but has not been completed, or

(III) has not commenced.",

and

(c) by the insertion of the following subsections after subsection (2):

"(3) Subsection (2) shall cease to apply to any development referred to in paragraph (c) of that subsection which has not been completed on or before the 5th anniversary of the date of commencement of *section 251* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*.

(4) (a) Where subsection (2) applies to any development referred to in paragraph (c) of that subsection and the development is the subject of a lease referred to in subparagraph (i)(I) of that paragraph, the provisions of section 2 of the Act of 1933 relevant to the lease shall be deemed to apply to the carrying out of the development.

(b) Where subsection (2) applies to any development referred to in paragraph (c) of that subsection and the development is the subject of a licence referred to in subparagraph (i)(II) of that paragraph, the provisions of section 3 of the Act of 1933 relevant to the licence shall be deemed to apply to the carrying out of the development.

(c) Where development referred to in paragraph (c) of subsection (2) required, as appropriate—

(i) an environmental impact assessment,

(ii) an appropriate assessment,

(iii) both an environmental impact assessment and an appropriate assessment,

to be carried out, subsection (2) shall not apply to the development unless the assessment was, or those assessments were, as the case may be, carried out before, as appropriate, the making of the lease or the granting of the licence concerned.".

Amendment of section 286 of Act of 2000

252. Section 286 of the Act of 2000 is amended—

(a) in subsection (3)—

(i) by the substitution of "sections 287(4) and 304" for "section 304", and

(ii) in paragraphs (b) and (d), by the insertion of "in the maritime area" after "owner of the land",

and

(b) in subsection (4)(b) and (d), by the insertion of "in the maritime area" after "owner of land".

Amendment of section 287 of Act of 2000

253. Section 287 of the Act of 2000 is amended—

(a) in subsection (1), by the substitution of "Subject to subsection (4), a person" for "A person", and

(b) by the insertion of the following subsection after subsection (3):

"(4) (a) Subject to paragraph (b), a prospective applicant for permission to carry out development consisting of port infrastructure to facilitate the deployment, maintenance or operation of offshore renewable energy infrastructure may consult with the Board in accordance with subsection (1) notwithstanding that the prospective applicant is not the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of such proposed development.

(b) Paragraph (a) shall not be construed to entitle the prospective applicant referred to in that paragraph to make an application under section 291 for permission for the development referred to in that paragraph without being the holder of the maritime area consent referred to in that paragraph.".

Chapter 4

Amendment of Wildlife (Amendment) Act 2000 and Wildlife (Amendment) Act 2023

Amendment of section 18A of Wildlife (Amendment) Act 2000

254. Section 18A(7)(b) (as inserted by section 4 of the Wildlife (Amendment) Act 2023) of the Wildlife (Amendment) Act 2000 is amended by the deletion of subparagraph (iv).

Amendment of section 7 of Wildlife (Amendment) Act 2023

255. Section 7 (2) of the Wildlife (Amendment) Act 2023 is amended by the deletion of "Minister for Culture, Heritage and the Gaeltacht" and the substitution of "Minister for Housing, Local Government and Heritage".

Chapter 5

Amendment of Valuation Act 2001

Definition

256. In this Chapter, "Act of 2001" means the Valuation Act 2001 .

Amendment of section 28 of Act of 2001

257. Section 28 of the Act of 2001 is amended by the substitution of the following subsections for subsection (14):

"(14) An amendment of a valuation list made under subsection (10), (11) or (12) shall have full force, from the date of its making, for the purposes of the rating authority concerned levying a rate in relation to the property concerned by reference to that list as so amended.

(15) Where—

(a) an amount of monies is paid on account of a rate levied in respect of a property, and

(b) it appears, consequent on an amendment of the value of the property made pursuant to an exercise of the powers under this section, that that payment involved an overpayment or an underpayment of the amount due in respect of such a rate,

then the balance owing or owed, as the case may be, to or by the person concerned may be paid or recovered, as appropriate—

(i) in the case of an overpayment, by making a refund to the person concerned of an amount equal to that balance or allowing an amount equal to that balance as a credit against the amount owed by the person concerned on account of a rate levied in respect of that or any other property, and

(ii) in the case of an underpayment, by recovering from the person concerned an amount equal to that balance as arrears of the rate concerned (and, accordingly, any of the means provided under any enactment for the recovery of a rate may be employed for that purpose).".

Amendment of section 38 of Act of 2001

258. Section 38 of the Act of 2001 is amended—

(a) by renumbering it as subsection (1), and

(b) by inserting the following subsections after subsection (1):

"(2) An amendment of a valuation list made under this section shall have full force, from the date of its making, for the purposes of the rating authority concerned levying a rate in relation to the property concerned by reference to that list as so amended.

(3) Where—

(a) an amount of monies is paid on account of a rate levied in respect of a property, and

(b) it appears, consequent on an amendment of the value of the property made pursuant to an exercise of the powers under this section, that that payment involved an overpayment or an underpayment of the amount due in respect of such a rate,

then the balance owing or owed, as the case may be, to or by the person concerned may be paid or recovered, as appropriate—

(i) in the case of an overpayment, by making a refund to the person concerned of an amount equal to that balance or allowing an amount equal to that balance as a credit against the amount owed by the person concerned on account of a rate levied in respect of that or any other property, and

(ii) in the case of an underpayment, by recovering from the person concerned an amount equal to that balance as arrears of the rate concerned (and, accordingly, any of the means provided under any enactment for the recovery of a rate may be employed for that purpose).".

Amendment of section 53 of Act of 2001

259. Section 53(11) of the Act of 2001 is amended by the substitution of "together with issuing" for "and Tailte Éireann shall issue".

Amendment of section 56 of Act of 2001

260. Section 56 of the Act of 2001 is amended—

(a) in subsection (2), by the substitution of "D is, subject to subsection (2A)," for "D is" in both places where it occurs, and

(b) by the insertion of the following subsection after subsection (2):

"(2A) Where the annual rate on valuation that was levied by a rating authority for the preceding year 2023 was done pursuant to section 103 (7) of the Local Government Act 2001 and not pursuant to section 3 of the Local Government Rates and other Matters Act 2019 , the two references to ' section 3 of the Local Government Rates and other Matters Act 2019 ' in subsection (2) shall, in relation to that rating authority only and that preceding year only, be read as references to ' section 103 (7) of the Local Government Act 2001 ' and notwithstanding the Local Government Rates and other Matters Act 2019 .".

Chapter 6

Amendment of Local Government Act 2001

Amendment of section 19A of Act of 2001

261. Section 19A of the Act of 2001 is amended—

(a) in subsection (1)(b), by the insertion of "to perform the member's functions during the absence" after "temporary substitute", and

(b) by the insertion of the following subsection after subsection (9):

"(9A) The member causing the temporary absence shall not perform any functions as a member unless and until he or she returns to office.".

Chapter 7

Amendment of Local Government Rates and other Matters Act 2019

Definition

262. In this Chapter, "Act of 2019" means the Local Government Rates and other Matters Act 2019 .

Rate to be levied on occupiers of relevant property

263. The Act of 2019 is amended by the substitution of the following section for section 4:

"4. (1) Subject to this section, in each local financial year, each rating authority shall, in accordance with the provisions of this section, impose and collect a charge (in this Act referred to as 'a rate') levied in respect of a relevant property included in—

(a) an existing valuation list for the rating authority's area, or

(b) the valuation list published under section 23 of the Act of 2001 in the rating authority area of that authority.

(2) The amount of the rate so levied shall be calculated in accordance with the following formula:

A x B on C

where—

A is the valuation of the relevant property,

B is the annual rate on valuation determined by the rating authority concerned under section 3 for that year, and

C is the last day of the local financial year immediately preceding the local financial year to which the calculation relates.

(3) The rate calculated under this section shall be due and payable on the first day of the local financial year to which the rate applies.

(4) (a) Subject to paragraph (b), the following persons (in this Act referred to as a 'liable person') are liable to pay the rate levied under this section:

(i) the occupier of the relevant property on the day specified in subsection (3) ;

(ii) if the relevant property is unoccupied on that day, the person who is for the time being entitled to occupy the property on that day.

(b) Where a rate has been levied in respect of a relevant property in any local financial year and the liable person to whom a rates bill has been given under this section ceases to be the liable person in respect of the relevant property before the end of that year and has not paid the rate so levied, such liable person shall be liable to pay that portion of the rate levied in respect of that part of that year during which he or she remained the liable person and the remaining portion of the rate shall be levied on any subsequent liable persons on a pro-rata basis in respect of that part of that year in respect of which they were such liable persons.

(5) (a) A rates bill stating the rate levied under this section shall be given by the rating authority concerned to a liable person—

(i) where sections 3 and 4(1) and (2) apply,

(ii) where a valuation of a relevant property is amended pursuant to section 28 or 38 of the Act of 2001,

(iii) who is a subsequent liable person, or

(iv) in accordance with subsection (6).

(b) The rates bill shall include the following information:

(i) the amount of the rate payable by the person to whom the rates bill is addressed;

(ii) the date by which the rate is due and payable and the manner in which it is to be paid;

(iii) the address of the relevant property;

(iv) the valuation of the relevant property;

(v) any other information considered necessary by the rating authority.

(6) A rates bill under this section shall be addressed to the liable person or subsequent liable person concerned by name and may be so served on or given to the person in one of the following ways:

(a) by delivering it to the person;

(b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;

(c) by sending it by post to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;

(d) by electronic means, in a case in which the person has given notice in writing to the person serving or giving the notice or document concerned of his or her consent to the notice or document (or notices or documents of a class to which the notice or document belongs) being served on, or given to, him or her in that manner;

(e) in such other way as may be prescribed.

(7) Where the name of the liable person or subsequent liable person concerned cannot be ascertained by reasonable inquiry, a rates bill under this section may be addressed—

(a) to 'the occupier', 'the owner' or 'the person liable to pay the rates bill', as appropriate, or

(b) in such other way as may be prescribed.

(8) A rate levied under this section shall be payable by a liable person or subsequent liable person in such manner and in respect of such period or periods as the rating authority concerned shall determine.

(9) Where—

(a) the valuation of a relevant property on the existing valuation list or the valuation list is amended pursuant to section 28 or 38 of the Act of 2001,

(b) a new relevant property is included on the existing valuation list or the valuation list on foot of a valuation carried out pursuant to section 28 or 38 of the Act of 2001, or

(c) a relevant property is excluded from the existing valuation list or the valuation list pursuant to section 28 or 38 of the Act 2001,

the rating authority may amend the amount of the rate calculated under subsection (2) or levy a rate, or both, as appropriate, in respect of the relevant properties and specify the date (determined as prescribed) on and after which such amendment shall take effect.

(10) For the purposes of this section, a company registered under the Companies Act 2014 , or an existing company within the meaning of that Act, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

(11) In this section—

'Act of 2001' means the Valuation Act 2001 ;

'existing valuation list' has the same meaning as it has in the Act of 2001;

'subsequent liable person' means a subsequent liable person referred to in subsection (4)(b);

'valuation list' has the same meaning as it has in the Act of 2001.".

Rate book

264. The Act of 2019 is amended by the substitution of the following section for section 5:

"5. (1) The contents of a rate book prepared by a local authority may be stored electronically.

(2) A book referred to in section 65 of the Poor Relief (Ireland) Act 1838 shall be deemed to be a rate book referred to in subsection (1) (in this subsection referred to as a 'deemed rate book') and, where the deemed rate book is stored electronically, that shall be deemed to satisfy the requirements of that section in respect of the deemed rate book and notwithstanding any specific such requirements.".

Amendment of section 9 of Act of 2019

265. Section 9 of the Act of 2019 is amended—

(a) in subsection (3)(b), by the deletion of "rateable", and

(b) by the deletion of subsection (10).

Amendment of section 10 of Act of 2019

266. Section 10 of the Act of 2019 is amended—

(a) in subsection (1), by the insertion of "(which may consist of more than one database)" after "database of information",

(b) in subsection (2) —

(i) by the insertion of the following paragraph after paragraph (a):

"(aa) if the relevant property is unoccupied, if known, the name of the person who is for the time being entitled to occupy the relevant property;",

and

(ii) in paragraph (d), by the insertion of "to the extent known," before "the nature",

and

(c) by the insertion of the following subsection after subsection (2):

"(2A) (a) A liable person in respect of a relevant property shall, upon becoming aware that any particular entered in the database in respect of him or her or the relevant property is incorrect or has ceased to be correct, not later than 10 working days after becoming so aware, give notice in writing of that incorrection or cessation of correction, as the case may be, to the local authority together with such other (as is reasonable in all the circumstances of the case) information in respect thereof as will enable the local authority to perform its function under subsection (3) in respect of that particular.

(b) A liable person who, without reasonable excuse, contravenes paragraph (a) shall be guilty of an offence and shall be liable, on summary conviction, to a class A fine.".

Duty on person to notify local authority of ceasing to be or becoming liable person, etc.

267. The Act of 2019 is amended by the substitution of the following section for section 11:

"11. (1) Where a person (in this subsection referred to as the 'person concerned')—

(a) ceases to be a liable person in respect of a relevant property,

(b) becomes a liable person in respect of a relevant property, or

(c) changes his or her status as a liable person in respect of a relevant property by virtue of—

(i) ceasing to fall within paragraph (a)(i) of subsection (4) of section 4 but falling within paragraph (a)(ii) of that subsection in respect of such property, or

(ii) ceasing to fall within paragraph (a)(ii) of subsection (4) of section 4 but falling within paragraph (a)(i) of that subsection in respect of such property,

the person concerned (or such other person as the person concerned has authorised in writing to act on his or her behalf for the purposes of this subsection) shall, not later than 10 working days after the date on which the person concerned falls within paragraph (a), (b) or (c), as the case may be, give notice in writing of that fact (and, where the person concerned falls within paragraph (a), particulars known (if any) to the person concerned of the name and address of any person who has become a liable person in respect of the relevant property upon the person concerned ceasing to be a liable person in respect of the relevant property) to the rating authority concerned and in the notice specify that date and the relevant property.

(2) A person who, without reasonable excuse, contravenes subsection (1) shall be guilty of an offence and shall be liable, on summary conviction, to a class A fine.

(3) The Minister may make regulations for the purposes of specifying the information or documents (or copies of documents) which shall accompany a notice under subsection (1) or a notice under that subsection which falls within a class of such notices specified in the regulations.".

Amendment of section 12 of Act of 2019

268. Section 12(2) of the Act of 2019 is amended by the substitution of "the prescribed rate or, if no rate is prescribed, the rate of 0.0219 per cent" for "the rate of 0.0219 per cent".

Payment of rates on sale of property

269. The Act of 2019 is amended by the substitution of the following section for section 13:

"13. (1) The liable person in respect of a relevant property who proposes to sell the property shall, before the completion of the sale, pay to the local authority concerned any rates imposed under this Act and accrued interest which is due and payable in respect of that property—

(a) for the period up to and including the day immediately before such completion, and

(b) for which the person is liable in the person's capacity as a liable person.

(2) The local authority concerned shall, not later than 10 working days after an application in writing being made to it for the purpose by a liable person referred to in subsection (1) or a person acting on behalf of the liable person in connection with the sale of the relevant property referred to in that subsection, provide, in such form and manner as may be prescribed, the applicant with, as appropriate—

(a) confirmation of any unpaid rates and accrued interest referred to in that subsection at the expected date of the completion of the sale of the property, or

(b) confirmation that there are no outstanding amounts payable by that liable person.

(3) A liable person who contravenes subsection (1) shall be guilty of an offence and shall be liable, on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months or both.

(4) In this section, 'sale' includes, in relation to a relevant property, the transfer of the property by its owner or any trustee or personal representative of the owner to another person—

(a) in consequence of—

(i) the exercise of a power under any enactment to compulsorily acquire land, or

(ii) the giving of notice of intention to exercise such power,

or

(b) for no consideration or consideration which is significantly less than the market value of the property at the time of its transfer.".

Amendment of section 14 of Act of 2019

270. Section 14 of the Act of 2019 is amended—

(a) in subsection (1) —

(i) by the substitution of "Subject to subsection (2A), any" for "Any", and

(ii) by the insertion of "in the owner's capacity as a liable person" after "owner of the relevant property",

(b) in subsection (2), by the substitution of "Subject to subsection (2A), notwithstanding" for "Notwithstanding", and

(c) by the insertion of the following subsection after subsection (2):

"(2A) Subsection (1) shall cease to apply to a relevant property where the property is sold such that the liable person referred to in that subsection ceases to be the owner of the property.".

Amendment of section 17 of Act of 2019

271. Section 17 of the Act of 2019 is amended—

(a) in subsection (1)(a), by the substitution of "subsection (2)" for "subsection (3)",

(b) in subsection (2), by the insertion of "or property other than a relevant property" after "dwelling", and

(c) in subsection (3) —

(i) by the insertion of ", or property other than a relevant property," after "held at any dwelling,",

(ii) by the insertion of ", or such property, as the case may be," after "the dwelling", and

(iii) by the insertion of "as if such dwelling (if it is not a relevant property) or property were a relevant property" after "under this section".

Construction of sections 65 and 106 of Poor Relief (Ireland) Act 1838

272. The Act of 2019 is amended by the insertion of the following section after section 19:

"19A. With effect on and after the commencement of *section 272* of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*—

(a) the reference to 'such rate' in section 65 of the Poor Relief (Ireland) Act 1838 shall be construed not as a reference to a rate made under that Act but as a reference to a rate within the meaning of this Act and the other provisions of the Poor Relief (Ireland) Act 1838 shall, with all necessary modifications, be construed accordingly, and

(b) the reference to 'this Act' in section 106 of the Poor Relief (Ireland) Act 1838 shall be construed not as a reference to that Act but as a reference to this Act and the other provisions of the Poor Relief (Ireland) Act 1838 shall, with all necessary modifications, be construed accordingly.".

Amendment of section 21 of Act of 2019

273. Section 21 of the Act of 2019 is amended by the deletion of paragraph (a).

Amendment of Schedule to Act of 2019

274. The Schedule to the Act of 2019 is amended by the insertion of the following reference after reference number 9:

"

9A.	No. 24 of 1946	Local Government Act 1946	Section 29

".

Chapter 8

Amendment of Maritime Area Planning Act 2021

Definition

275. In this Chapter, "Act of 2021" means the Maritime Area Planning Act 2021 .

Amendment of section 3 of Act of 2021

276. Section 3(1)(d) of the Act of 2021 is amended by the insertion of "as construed in accordance with the Act of 2021" after "continental shelf".

Amendment of section 75 of Act of 2021

277. Section 75 of the Act of 2021 is amended—

(a) in subsection (1), by the insertion of "and sections 75A and 76A" after "subsection (4) ", and

(b) by the substitution of the following subsection for subsection (4):

"(4) (a) Subsection (1) shall not apply to any proposed maritime usage specified in Schedule 3.

(b) Subject to paragraph (c), subsection (1) shall not apply where—

(i) a prospective applicant for the development permission referred to in that subsection has, on or before 1 October 2022, entered into consultations with the Board (P) under section 37B of the Act of 2000, and

(ii) an application for such permission is made, on or before 1 October 2024, pursuant to Part III of the Act of 2000.

(c) Where a person is for the time being not required to be the holder of a MAC by virtue of the operation of paragraph (b), the person shall make the MAC application concerned before the 2nd anniversary of the date of the grant of the permission concerned pursuant to Part III of the Act of 2000.".

When MAC is required after grant of certain development permission

278. The Act of 2021 is amended by the insertion of the following section after section 75:

"75A. (1) Subject to subsections (2) and (3), where development permission has been granted, on or before 17 July 2023, for a proposed maritime usage in a part of the maritime area, a person shall not undertake such usage unless he or she is, in respect of that part, the holder of a MAC for the occupation of that part for the purposes of such usage.

(2) Subsection (1) shall not apply to a proposed maritime usage referred to in that subsection that is the subject of—

(a) a lease made under section 2 of the Act of 1933 that authorises the lessee to do, for the purposes of such usage, one or more than one of the acts referred to in that section, or

(b) a licence granted under section 3 of the Act that authorises the licensee to do, for the purposes of such usage, one or more than one of the acts referred to in that section.

(3) An application under section 79(1) for the grant of a MAC for the purposes of the undertaking of the proposed maritime usage referred to in subsection (1) shall be made before 17 July 2024.".

Amendment of section 76 of Act of 2021

279. Section 76(1) of the Act of 2021 is amended by the insertion of "and section 76A" after "subsection (4) ".

When MAC is not required

280. The Act of 2021 is amended by the insertion of the following section after section 76:

"76A. Neither section 75 nor section 76 shall apply for a maritime usage in a part of the maritime area consisting of development (including the laying of cables or pipelines or both) authorised by—

(a) a lease made under section 2 of the Act of 1933 pursuant to an application for such lease made under that Act before the establishment day, or

(b) a licence granted under section 3 of the Act of 1933 pursuant to an application for such licence made under that Act before the establishment day.".

Amendment of section 144 of Act of 2021

281. Section 144(1) of the Act of 2021 is amended by the insertion of "section 144A and" after "Subject to".

Disapplication of section 144(1)(a) or (b) of Act of 2021 in specified circumstances

282. The Act of 2021 is amended by the insertion of the following section after section 144:

"144A. (1) Subject to subsections (4), (6), (8) and (9), the relevant event shall not terminate the relevant authorisation until the expiration of the relevant period.

(2) The MARA may, at any time during the relevant period, by notice in writing given to the relevant person, require the person to submit a return, in the specified form and within such period as is specified in the notice (being a period reasonable in all the circumstances of the case), to the MARA on the person's prospects of finding a proposed assignee within the relevant period.

(3) The relevant person who is given a notice under subsection (2) shall comply with the notice.

(4) Where—

(a) the relevant person who was given a notice under subsection (2) fails to comply with the notice, or

(b) the MARA, having considered a return submitted to it by the relevant person pursuant to a notice under subsection (2), is satisfied that there is no reasonable prospect of the person finding a proposed assignee within the relevant period,

the MARA shall, by notice published on its website, disapply subsection (1) to the relevant authorisation (and subsection (5) of section 144 applies accordingly in respect of the termination of the authorisation).

(5) The relevant person may, by notice in the specified form, request the MARA to extend or further extend the relevant period on the grounds specified in the notice.

(6) The MARA, after having considered a notice given to it by the relevant person pursuant to subsection (5), shall—

(a) if it is satisfied that there is a reasonable prospect of the person finding a proposed assignee within the relevant period as extended or further extended for such period as the MARA thinks reasonable in all the circumstances of the case, by notice in writing given to the person, extend or further extend the relevant period for such period as is specified in the notice, or

(b) if not so satisfied, by notice in writing given to the person refuse to extend or further extend the relevant period.

(7) For the purposes of this section, the references to 'holder' and 'proposed assigner' in section 85 may be construed as references to the relevant person.

(8) Where, before the expiration of the relevant period, an application is made under section 85 for the assignment of the relevant authorisation, the relevant period shall not expire until the determination of the application.

(9) Where the relevant authorisation is assigned to the proposed assignee pursuant to the determination of an application under section 85, the relevant event shall not apply to the authorisation but without prejudice to any future application of section 144 to the authorisation.

(10) In this section—

'proposed assignee' shall be construed in accordance with section 85;

'relevant authorisation' means a relevant authorisation which is a MAC in respect of which an event which falls within section 144(1)(a) or (b) has occurred in respect of the holder of the authorisation;

'relevant event', in relation to the relevant authorisation, means the event referred to in the definition of 'relevant authorisation';

'relevant person', in relation to the relevant authorisation, means—

(a) the holder of the authorisation,

(b) a secured party, or

(c) both the holder and such party;

'relevant period', in relation to the relevant authorisation, means the following:

(a) subject to paragraph (b), the period of 90 days commencing on the day immediately following the day on which the relevant event occurs;

(b) that 90 days as extended or by virtue of subsection (6)(a) or (8);

'security interest' means any mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any agreement or other arrangement having a similar effect;

'secured party', in relation to a relevant authorisation, means a person—

(a) in whose favour a security interest has been created over—

(i) the maritime usage the subject of the authorisation, or

(ii) the shares (if any) of the holder of the authorisation,

or

(b) who has, pursuant to an agreement in writing, been afforded rights to step in to the interest that the holder of the authorisation has in the maritime usage the subject of the authorisation,

and whether or not the person is acting for the person's own benefit or as agent, security agent, security trustee or otherwise for the first-mentioned person or another person, and includes any transferee of, or purchaser from, the first-mentioned person or nominee or novatee of the holder of the authorisation or of the first-mentioned person.".

SCHEDULE 1

Repeals

Section 7

Reference	Number and Year	Short Title	Extent of Repeal
(1)	(2)	(3)	(4)
1.	1869 (32 & 33 Vict. c.42)	Irish Church Act 1869	Section 25(1)
2.	1903 (3 Edw. 7 c. 39)	Irish Land Act 1903	Section 14
3.	No. 26 of 1925	Shannon Electricity Act 1925	Section 15
4.	No. 2 of 1930	National Monuments Act 1930	The whole Act
5.	No. 37 of 1954	National Monuments (Amendment) Act 1954	The whole Act
6.	No. 9 of 1962	Coroners Act 1962	Section 49
7.	No. 7 of 1969	Holycross Abbey (County Tipperary) Act 1969	The whole Act
8.	No. 17 of 1987	National Monuments (Amendment) Act 1987	The whole Act
9.	No. 17 of 1994	National Monuments (Amendment) Act 1994	The whole Act
10.	No. 4 of 1995	Heritage Act 1995	Section 24
11.	No. 19 of 1999	Architectural Heritage (National Inventory) and Historic Monuments (Miscellaneous Provisions) Act 1999	The whole Act
12.	No. 22 of 2004	National Monuments (Amendment) Act 2004	The whole Act

SCHEDULE 2

Compulsory Acquisition of Registered Monument under *section 51*

Section 51

PART 1

Definitions

1. In this Schedule—

"commonage" means land which is held by 2 or more persons in common in undivided shares, whether as joint tenants or tenants in common;

"land" includes a registered monument and any estate, right or interest in or over land (including a registered monument);

"owner", in relation to land, includes a reputed owner of the land;

"vesting order (local authority)" shall be construed in accordance with *paragraph 9(1)*;

"vesting order (Minister)" shall be construed in accordance with *paragraph 4(1)*.

PART 2

Acquisition of Land by Minister

2. Where the Minister proposes to acquire any land compulsorily under *section 51* , he or she shall—

(a) deposit for a period of at least 6 weeks, in a Garda Síochána station in the district in which the land is situated, a map or plan of the land and make the map or plan available there for inspection by members of the public at all reasonable times,

(b) (i) publish a notice stating his or her intention to acquire the land compulsorily under *section 51* —

(I) in *Iris Oifigiúil*, and

(II) in at least one national newspaper,

and

(ii) in the notice, specify a cut-off date (being a period of not less than 6 weeks immediately following the date of publication of the notice) for the purposes of *paragraph 3(1)*.

(c) before publishing the notice referred to in *clause (b)*, in case all the land proposed to be acquired is in the occupation of the same person or persons, post that notice on or near the land and, in any other case, post such notice—

(i) subject to *subclause (ii)*, on or near the land of each occupier, or

(ii) if the land is commonage, on or near the land in such prominent position as the Minister is of the opinion is appropriate in all the circumstances,

and

(d) give a copy of the notice referred to in *clause (c)* to—

(i) every (if any) owner of the land unless the identity and whereabouts of the owner are unknown, and

(ii) every (if any) occupier of the land unless the identity and whereabouts of the occupier are unknown.

3. (1) Any owner or occupier of land in respect of which a notice under *paragraph 2(b)* has been published may, before the cut-off date specified in the notice, submit to the Minister an objection in writing, setting out the grounds for the objection, to the proposed compulsory acquisition referred to in the notice.

(2) A person who submitted an objection under *subparagraph (1)* may withdraw it by notice in writing given to the Minister.

(3) Where, in relation to the proposed compulsory acquisition of land under *section 51* , an objection is submitted to the Minister in accordance with *subparagraph (1)* and is not withdrawn, the Minister shall consider the objection as soon as is practicable and, by notice in writing given to the person who submitted the objection—

(a) decline to uphold the objection, for the reasons stated in the notice, in respect of all of the land to which the objection relates, or

(b) uphold the objection, for the reasons stated in the notice, in respect of all or part of the land to which the objection relates.

4. (1) Where, in relation to any land in respect of which *paragraph 2* has been complied with—

(a) no objection is submitted to the Minister in accordance with *paragraph 3*,

(b) any such objection which is submitted is subsequently withdrawn or the Minister's consideration of the objection under *paragraph 3(3)* results in the objection being—

(i) declined to be upheld under *paragraph 3(3)(a)*, or

(ii) upheld under *paragraph 3(3)(b)* but in respect of part only of that land,

and

(c) the Minister for Public Expenditure, National Development Plan Delivery and Reform gives his or her consent to the compulsory acquisition of the land by the Minister,

the Minister may by order (in this Part referred to as a "vesting order (Minister)"), in the prescribed form, acquire the land (but excluding any part of that land referred to in *clause (b)(ii)*).

(2) Where the Minister, before making a vesting order (Minister), becomes aware that the land to be acquired by the order is subject (whether alone or in conjunction with other land) to any annuity or other payment to the Minister for Agriculture, Food and the Marine or to any charge under the Acts (within the meaning of section 949A of the Taxes Consolidation Act 1997) payable to the Revenue Commissioners, the Minister shall forthwith inform the Minister for Agriculture, Food and the Marine or the Revenue Commissioners, as the case may be, of the intention to make the order.

(3) Whenever the Minster makes a vesting order (Minister), he or she shall, within 14 days after making the order—

(a) publish a copy of it in *Iris Oifigiúil*,

(b) in case all the land comprised in the order is in the occupation of the same person or persons, post a notice containing a copy of the order on or near the land and, in any other case, post such notice—

(i) subject to *subclause (ii)*, on or near the land of each occupier, or

(ii) if the land is commonage, on or near the land in such prominent position as the Minister is of the opinion is appropriate in all the circumstances,

and

(c) give a copy of the order to—

(i) every (if any) owner of the land unless the identity and whereabouts of the owner are unknown, and

(ii) every (if any) occupier of the land unless the identity and whereabouts of the occupier are unknown.

5. (1) Notwithstanding anything contained in a vesting order (Minister), where the Minister acquires by the order land which is subject, either alone or in conjunction with other land, to a purchase annuity, payment in lieu of rent or other annual sum (not being merely a rent under a contract of tenancy) payable to the Minister for Agriculture, Food and the Marine, the Minister shall become and be liable, as from the date on which the land is vested in him or her by the order, for the payment to the Minister for Agriculture, Food and the Marine of the purchase annuity, payment in lieu of rent or other annual sum, or such portion thereof as shall be apportioned by the Minister for Agriculture, Food and the Marine on the land, as if the land had been transferred to the Minister by the owner thereof on that date.

(2) When the Minister makes a vesting order (Minister) in relation to land, he or she shall send the order to the registering authority under the Act of 1964 and thereupon the registering authority shall cause the Minister to be registered under that Act as owner of the land in accordance with the order.

6. (1) Where, immediately before a vesting order (Minister) is made by the Minister, any person has any estate, right, easement, title or interest of any kind in, over or in respect of the land acquired by the order, the person may apply to the Minister at any time after the making of the order for compensation in respect of the estate, right, easement, title or interest and the Minister shall thereupon pay to the person compensation in respect of the estate, right, easement, title or interest together with the interest at such rate as the Minister for Public Expenditure, National Development Plan Delivery and Reform may determine, from time to time, on the amount from that date to the date of payment thereof.

(2) The amount of any compensation to be paid under this paragraph shall be determined under and in accordance with the Lands Clauses Acts and, for the purposes of those Acts, the Minister shall be deemed to be the promoter of the undertaking and this Act and the vesting order (Minister) concerned shall be deemed to be the special Act; and, for the purposes of such determination, those Acts shall apply with any other necessary modifications and are incorporated (except in so far as they are inconsistent with and subject to any amendments or modification, express or implied, thereof effected by this Act) with this Act.

PART 3

Acquisition of Land by Local Authority

7. Where a local authority proposes to acquire any land compulsorily under *section 51* , it shall—

(a) deposit for a period of at least 6 weeks, in a Garda Síochána station in the district in which the land is situated, a map or plan of the land and make the map or plan available there for inspection by members of the public at all reasonable times,

(b) (i) publish a notice stating its intention to acquire the land compulsorily under *section 51* —

(I) in *Iris Oifigiúil*, and

(II) in at least one national newspaper,

(ii) in the notice, specify a cut-off date (being a period of not less than 6 weeks immediately following the date of publication of the notice) for the purposes of *paragraph 8(1)*,

(c) before publishing the notice referred to in *clause (b)*, in case all the land proposed to be acquired is in the occupation of the same person or persons, post that notice on or near the land and, in any other case, post such notice—

(i) subject to *subclause (ii)*, on or near the land of each occupier, or

(ii) if the land is commonage, on or near the land in such prominent position as the Minister is of the opinion is appropriate in all the circumstances,

and

(d) give a copy of the notice referred to in *clause (c)* to—

(i) every (if any) owner of the land unless the identity and whereabouts of the owner are unknown, and

(ii) every (if any) occupier of the land unless the identity and whereabouts of the occupier are unknown.

8. (1) (a) Any owner or occupier of land in respect of which a notice under *paragraph 7(b)* has been published may, before the cut-off date, submit to the Minister an objection in writing, setting out the grounds for the objection, to the proposed compulsory acquisition referred to in the notice.

(b) When a person submits an objection under *clause (a)* to the Minister, he or she shall, at the same time, give a copy of the objection to the local authority.

(2) (a) A person who submitted an objection under *subparagraph (1)* may withdraw it by notice in writing sent to the Minister.

(b) When a person sends a notice under *clause (a)* to the Minister, he or she shall, at the same time, give a copy of the notice to the local authority.

(3) (a) Where, in relation to the proposed compulsory acquisition of land under *section 51* , an objection is submitted to the Minister in accordance with *subparagraph (1)(a)* and is not withdrawn, the Minister shall consider the objection as soon as is practicable and, by notice in writing given to the person who submitted the objection—

(i) decline to uphold the objection, for the reasons stated in the notice, in respect of all of the land to which the objection relates, or

(ii) uphold the objection, for the reasons stated in the notice, in respect of all or part of the land to which the objection relates.

(b) When the Minister sends a notice under *clause (a)* to a person, he or she shall, at the same time, send a copy of the notice to the local authority.

(4) (a) An application by the local authority for the consent of the Minister to the compulsory acquisition of land under *section 51* shall be accompanied by—

(i) a copy of the map or plan of the land deposited in accordance with *paragraph 7(a)*,

(ii) a copy of the national newspaper containing the notice referred to in *paragraph 7(b)*,

(iii) a copy of the notice referred to in *paragraph 7(c)*, and

(iv) a copy of any objection concerned under *subparagraph (1)*.

(b) The local authority shall give to the Minister such other information in relation to the acquisition as the Minister may require.

(5) On an application under *subparagraph (4)* by the local authority in relation to land, where the Minister is of the opinion that *paragraph 7* has not been complied with in relation to the land or part of the land, he or she shall refuse to grant his or her consent to the compulsory acquisition of the land or, as the case may be, refuse to grant his or her consent to the compulsory acquisition of the part and may grant his or her consent to the acquisition of the remainder of the land.

9. (1) Where, in relation to any land in respect of which *paragraph 7* has been complied with—

(a) no objection is submitted to the local authority in accordance with *paragraph 8*,

(b) any such objection which is submitted is subsequently withdrawn or the Minister's consideration of the objection under *paragraph 8(3)* results in the objection being—

(i) declined to be upheld under *paragraph 8(3)(a)(i)*, or

(ii) upheld under *paragraph 8(3)(a)(ii)* but in respect of part only of the land,

(c) the Minister gives his or her consent to the compulsory acquisition of the land by the local authority, and

(d) the Minister for Public Expenditure, National Development Plan Delivery and Reform gives his or her consent to the compulsory acquisition of the land,

the local authority may by order (in this Schedule referred to as a "vesting order (local authority)"), in the prescribed form, acquire the land (but excluding any part of that land the subject of a refusal referred to in *paragraph 8(5)* or any part of that land referred to in *clause (b)(ii)*).

(2) Where the local authority, before making a vesting order (local authority), becomes aware that the land to be acquired by the order is subject (whether alone or in conjunction with other land) to any annuity or other payment to the Minister for Agriculture, Food and the Marine or to any charge under the Acts (within the meaning of section 949A of the Taxes Consolidation Act 1997) payable to the Revenue Commissioners, the local authority shall forthwith inform the Minister for Agriculture, Food and the Marine or the Revenue Commissioners, as the case may be, of the intention to make the order.

(3) Whenever the local authority makes a vesting order (local authority), it shall, within 14 days after making the order—

(a) publish a copy of it in *Iris Oifigiúil*,

(b) in case all the land comprised in the order is in the occupation of the same person or persons, post a notice containing a copy of the order on or near the land and, in any other case, post such notice—

(i) subject to *subclause (ii)*, on or near the land of each occupier, or

(ii) if the land is commonage, on or near the land in such prominent position as the Minister is of the opinion is appropriate in all the circumstances,

and

(c) give a copy of the order to—

(i) every (if any) owner of the land unless the identity and whereabouts of the owner are unknown, and

(ii) every (if any) occupier of the land unless the identity and whereabouts of the occupier are unknown.

10. (1) Notwithstanding anything contained in a vesting order (local authority), where the local authority acquires by the order land which is subject, either alone or in conjunction with other land, to a purchase annuity, payment in lieu of rent or other annual sum (not being merely a rent under a contract of tenancy) payable to the Minister for Agriculture, Food and the Marine, the local authority shall become and be liable, as from the date on which the land is vested in it by the order, for the payment to the Minister for Agriculture, Food and the Marine of the purchase annuity, payment in lieu of rent or other annual sum, or such portion thereof as shall be apportioned by the Minister for Agriculture, Food and the Marine on the land, as if the land had been transferred to the local authority by the owner thereof on that date.

(2) When the local authority makes a vesting order (local authority) in relation to land, it shall send the order to the registering authority under the Act of 1964 and thereupon the registering authority shall cause the local authority to be registered under that Act as owner of the land in accordance with the order.

11. (1) Where, immediately before a vesting order (local authority) is made by the local authority, any person has any estate, right, easement, title or interest of any kind in, over or in respect of the land acquired by the order, the person may apply to the local authority at any time after the making of the order for compensation in respect of the estate, right, easement, title or interest and the local authority shall thereupon pay to the person compensation in respect of the estate, right, easement, title or interest together with interest at such rate as the Minister for Public Expenditure, National Development Plan Delivery and Reform may determine, from time to time, on the amount from that date to the date of payment thereof.

(2) The amount of any compensation to be paid under this paragraph shall be determined under and in accordance with the Lands Clauses Acts and, for the purposes of those Acts, the local authority shall be deemed to be the promoter of the undertaking and this Act and the vesting order (local authority) shall be deemed to be the special Act; and, for the purposes of such determination, those Acts shall apply with any other necessary modifications and are incorporated (except in so far as they are inconsistent with and subject to any amendments or modification, express or implied, thereof effected by this Act) with this Act.

SCHEDULE 3

UNESCO Convention concerning Protection of the World Cultural and Natural Heritage done in Paris on 23 November 1972

Section 90

The General Conference of the United Nations Educational, Scientific and Cultural Organization meeting in Paris from 17 October to 21 November 1972, at its seventeenth session,

Noting that the cultural heritage and the natural heritage are increasingly threatened with destruction not only by the traditional causes of decay, but also by changing social and economic conditions which aggravate the situation with even more formidable phenomena of damage or destruction,

Considering that deterioration or disappearance of any item of the cultural or natural heritage constitutes a harmful impoverishment of the heritage of all the nations of the world,

Considering that protection of this heritage at the national level often remains incomplete because of the scale of the resources which it requires and of the insufficient economic, scientific, and technological resources of the country where the property to be protected is situated,

Recalling that the Constitution of the Organization provides that it will maintain, increase, and diffuse knowledge by assuring the conservation and protection of the world's heritage, and recommending to the nations concerned the necessary international conventions,

Considering that the existing international conventions, recommendations and resolutions concerning cultural and natural property demonstrate the importance, for all the peoples of the world, of safeguarding this unique and irreplaceable property, to whatever people it may belong,

Considering that parts of the cultural or natural heritage are of outstanding interest and therefore need to be preserved as part of the world heritage of mankind as a whole,

Considering that, in view of the magnitude and gravity of the new dangers threatening them, it is incumbent on the international community as a whole to participate in the protection of the cultural and natural heritage of outstanding universal value, by the granting of collective assistance which, although not taking the place of action by the State concerned, will serve as an efficient complement thereto,

Considering that it is essential for this purpose to adopt new provisions in the form of a convention establishing an effective system of collective protection of the cultural and natural heritage of outstanding universal value, organized on a permanent basis and in accordance with modern scientific methods,

Having decided, at its sixteenth session, that this question should be made the subject of an international convention,

Adopts this sixteenth day of November 1972 this Convention.

I. DEFINITION OF THE CULTURAL AND NATURAL HERITAGE

Article 1

For the purpose of this Convention, the following shall be considered as “cultural heritage”:

monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;

groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;

sites: works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.

Article 2

For the purposes of this Convention, the following shall be considered as “natural heritage”:

natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;

geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation;

natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.

Article 3

It is for each State Party to this Convention to identify and delineate the different properties situated on its territory mentioned in Articles 1 and 2 above.

II. NATIONAL PROTECTION AND INTERNATIONAL PROTECTION OF THE CULTURAL AND NATURAL HERITAGE

Article 4

Each State Party to this Convention recognizes that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage referred to in Articles 1 and 2 and situated on its territory, belongs primarily to that State. It will do all it can to this end, to the utmost of its own resources and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain.

Article 5

To ensure that effective and active measures are taken for the protection, conservation and presentation of the cultural and natural heritage situated on its territory, each State Party to this Convention shall endeavor, in so far as possible, and as appropriate for each country:

(a) to adopt a general policy which aims to give the cultural and natural heritage a function in the life of the community and to integrate the protection of that heritage into comprehensive planning programmes;

(b) to set up within its territories, where such services do not exist, one or more services for the protection, conservation and presentation of the cultural and natural heritage with an appropriate staff and possessing the means to discharge their functions;

(c) to develop scientific and technical studies and research and to work out such operating methods as will make the State capable of counteracting the dangers that threaten its cultural or natural heritage;

(d) to take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage; and

(e) to foster the establishment or development of national or regional centres for training in the protection, conservation and presentation of the cultural and natural heritage and to encourage scientific research in this field.

Article 6

1. Whilst fully respecting the sovereignty of the States on whose territory the cultural and natural heritage mentioned in Articles 1 and 2 is situated, and without prejudice to property right provided by national legislation, the States Parties to this Convention recognize that such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to co-operate.

2. The States Parties undertake, in accordance with the provisions of this Convention, to give their help in the identification, protection, conservation and presentation of the cultural and natural heritage referred to in paragraphs 2 and 4 of Article 11 if the States on whose territory it is situated so request.

3. Each State Party to this Convention undertakes not to take any deliberate measures which might damage directly or indirectly the cultural and natural heritage referred to in Articles 1 and 2 situated on the territory of other States Parties to this Convention.

Article 7

For the purpose of this Convention, international protection of the world cultural and natural heritage shall be understood to mean the establishment of a system of international cooperation and assistance designed to support States Parties to the Convention in their efforts to conserve and identify that heritage.

III INTERGOVERNMENTAL COMMITTEE FOR THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE

Article 8

1. An Intergovernmental Committee for the Protection of the Cultural and Natural Heritage of Outstanding Universal Value, called "the World Heritage Committee", is hereby established within the United Nations Educational, Scientific and Cultural Organization. It shall be composed of 15 States Parties to the Convention, elected by States Parties to the Convention meeting in general assembly during the ordinary session of the General Conference of the United Nations Educational, Scientific and Cultural Organization. The number of States members of the Committee shall be increased to 21 as from the date of the ordinary session of the General Conference following the entry into force of this Convention for at least 40 States.

2. Election of members of the Committee shall ensure an equitable representation of the different regions and cultures of the world.

3. A representative of the International Centre for the Study of the Preservation and Restoration of Cultural Property (Rome Centre), a representative of the International Council of Monuments and Sites (ICOMOS) and a representative of the International Union for Conservation of Nature and Natural Resources (IUCN), to whom may be added, at the request of States Parties to the Convention meeting in general assembly during the ordinary sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organization, representatives of other intergovernmental or non-governmental organizations, with similar objectives, may attend the meetings of the Committee in an advisory capacity.

Article 9

1. The term of office of States members of the World Heritage Committee shall extend from the end of the ordinary session of the General Conference during which they are elected until the end of its third subsequent ordinary session.

2. The term of office of one-third of the members designated at the time of the first election shall, however, cease at the end of the first ordinary session of the General Conference following that at which they were elected; and the term of office of a further third of the members designated at the same time shall cease at the end of the second ordinary session of the General Conference following that at which they were elected. The names of these members shall be chosen by lot by the President of the General Conference of the United Nations Educational, Scientific and Cultural Organization after the first election.

3. States members of the Committee shall choose as their representatives persons qualified in the field of the cultural or natural heritage.

Article 10

1. The World Heritage Committee shall adopt its Rules of Procedure.

2. The Committee may at any time invite public or private organizations or individuals to participate in its meetings for consultation on particular problems.

3. The Committee may create such consultative bodies as it deems necessary for the performance of its functions.

Article 11

1. Every State Party to this Convention shall, in so far as possible, submit to the World Heritage Committee an inventory of property forming part of the cultural and natural heritage, situated in its territory and suitable for inclusion in the list provided for in paragraph 2 of this Article. This inventory, which shall not be considered exhaustive, shall include documentation about the location of the property in question and its significance.

2. On the basis of the inventories submitted by States in accordance with paragraph 1, the Committee shall establish, keep up to date and publish, under the title of "World Heritage List," a list of properties forming part of the cultural heritage and natural heritage, as defined in Articles 1 and 2 of this Convention, which it considers as having outstanding universal value in terms of such criteria as it shall have established. An updated list shall be distributed at least every two years.

3. The inclusion of a property in the World Heritage List requires the consent of the State concerned. The inclusion of a property situated in a territory, sovereignty or jurisdiction over which is claimed by more than one State shall in no way prejudice the rights of the parties to the dispute.

4. The Committee shall establish, keep up to date and publish, whenever circumstances shall so require, under the title of “list of World Heritage in Danger”, a list of the property appearing in the World Heritage List for the conservation of which major operations are necessary and for which assistance has been requested under this Convention. This list shall contain an estimate of the cost of such operations. The list may include only such property forming part of the cultural and natural heritage as is threatened by serious and specific dangers, such as the threat of disappearance caused by accelerated deterioration, large-scale public or private projects or rapid urban or tourist development projects; destruction caused by changes in the use or ownership of the land; major alterations due to unknown causes; abandonment for any reason whatsoever; the outbreak or the threat of an armed conflict; calamities and cataclysms; serious fires, earthquakes, landslides; volcanic eruptions; changes in water level, floods and tidal waves. The Committee may at any time, in case of urgent need, make a new entry in the List of World Heritage in Danger and publicize such entry immediately.

5. The Committee shall define the criteria on the basis of which a property belonging to the cultural or natural heritage may be included in either of the lists mentioned in paragraphs 2 and 4 of this article.

6. Before refusing a request for inclusion in one of the two lists mentioned in paragraphs 2 and 4 of this article, the Committee shall consult the State Party in whose territory the cultural or natural property in question is situated.

7. The Committee shall, with the agreement of the States concerned, co-ordinate and encourage the studies and research needed for the drawing up of the lists referred to in paragraphs 2 and 4 of this article.

Article 12

The fact that a property belonging to the cultural or natural heritage has not been included in either of the two lists mentioned in paragraphs 2 and 4 of Article 11 shall in no way be construed to mean that it does not have an outstanding universal value for purposes other than those resulting from inclusion in these lists.

Article 13

1. The World Heritage Committee shall receive and study requests for international assistance formulated by States Parties to this Convention with respect to property forming part of the cultural or natural heritage, situated in their territories, and included or potentially suitable for inclusion in the lists mentioned referred to in paragraphs 2 and 4 of Article 11. The purpose of such requests may be to secure the protection, conservation, presentation or rehabilitation of such property.

2. Requests for international assistance under paragraph 1 of this article may also be concerned with identification of cultural or natural property defined in Articles 1 and 2, when preliminary investigations have shown that further inquiries would be justified.

3. The Committee shall decide on the action to be taken with regard to these requests, determine where appropriate, the nature and extent of its assistance, and authorize the conclusion, on its behalf, of the necessary arrangements with the government concerned.

4. The Committee shall determine an order of priorities for its operations. It shall in so doing bear in mind the respective importance for the world cultural and natural heritage of the property requiring protection, the need to give international assistance to the property most representative of a natural environment or of the genius and the history of the peoples of the world, the urgency of the work to be done, the resources available to the States on whose territory the threatened property is situated and in particular the extent to which they are able to safeguard such property by their own means.

5. The Committee shall draw up, keep up to date and publicize a list of property for which international assistance has been granted.

6. The Committee shall decide on the use of the resources of the Fund established under Article 15 of this Convention. It shall seek ways of increasing these resources and shall take all useful steps to this end.

7. The Committee shall co-operate with international and national governmental and non-governmental organizations having objectives similar to those of this Convention. For the implementation of its programmes and projects, the Committee may call on such organizations, particularly the International Centre for the Study of the Preservation and Restoration of Cultural Property (the Rome Centre), the International Council of Monuments and Sites (ICOMOS) and the International Union for Conservation of Nature and Natural Resources (IUCN), as well as on public and private bodies and individuals.

8. Decisions of the Committee shall be taken by a majority of two-thirds of its members present and voting. A majority of the members of the Committee shall constitute a quorum.

Article 14

1. The World Heritage Committee shall be assisted by a Secretariat appointed by the Director-General of the United Nations Educational, Scientific and Cultural Organization.

2. The Director-General of the United Nations Educational, Scientific and Cultural Organization, utilizing to the fullest extent possible the services of the International Centre for the Study of the Preservation and the Restoration of Cultural Property (the Rome Centre), the International Council of Monuments and Sites (ICOMOS) and the International Union for Conservation of Nature and Natural Resources (IUCN) in their respective areas of competence and capability, shall prepare the Committee's documentation and the agenda of its meetings and shall have the responsibility for the implementation of its decisions.

IV FUND FOR THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE

Article 15

1. A Fund for the Protection of the World Cultural and Natural Heritage of Outstanding Universal Value, called “the World Heritage Fund”, is hereby established.

2. The Fund shall constitute a trust fund, in conformity with the provisions of the Financial Regulations of the United Nations Educational, Scientific and Cultural Organization.

3. The resources of the Fund shall consist of:

(a) compulsory and voluntary contributions made by States Parties to this Convention,

(b) Contributions, gifts or bequests which may be made by:

(i) other States;

(ii) the United Nations Educational, Scientific and Cultural Organization, other organizations of the United Nations system, particularly the United Nations Development Programme or other intergovernmental organizations;

(iii) public or private bodies or individuals;

(c) any interest due on the resources of the Fund;

(d) funds raised by collections and receipts from events organized for the benefit of the fund; and

(e) all other resources authorized by the Fund's regulations, as drawn up by the World Heritage Committee.

4. Contributions to the Fund and other forms of assistance made available to the Committee may be used only for such purposes as the Committee shall define. The Committee may accept contributions to be used only for a certain programme or project, provided that the Committee shall have decided on the implementation of such programme or project. No political conditions may be attached to contributions made to the Fund.

Article 16

1. Without prejudice to any supplementary voluntary contribution, the States Parties to this Convention undertake to pay regularly, every two years, to the World Heritage Fund, contributions, the amount of which, in the form of a uniform percentage applicable to all States, shall be determined by the General Assembly of States Parties to the Convention, meeting during the sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organization. This decision of the General Assembly requires the majority of the States Parties present and voting, which have not made the declaration referred to in paragraph 2 of this Article. In no case shall the compulsory contribution of States Parties to the Convention exceed 1% of the contribution to the regular budget of the United Nations Educational, Scientific and Cultural Organization.

2. However, each State referred to in Article 31 or in Article 32 of this Convention may declare, at the time of the deposit of its instrument of ratification, acceptance or accession, that it shall not be bound by the provisions of paragraph 1 of this Article.

3. A State Party to the Convention which has made the declaration referred to in paragraph 2 of this Article may at any time withdraw the said declaration by notifying the Director-General of the United Nations Educational, Scientific and Cultural Organization. However, the withdrawal of the declaration shall not take effect in regard to the compulsory contribution due by the State until the date of the subsequent General Assembly of States parties to the Convention.

4. In order that the Committee may be able to plan its operations effectively, the contributions of States Parties to this Convention which have made the declaration referred to in paragraph 2 of this Article, shall be paid on a regular basis, at least every two years, and should not be less than the contributions which they should have paid if they had been bound by the provisions of paragraph 1 of this Article.

5. Any State Party to the Convention which is in arrears with the payment of its compulsory or voluntary contribution for the current year and the calendar year immediately preceding it shall not be eligible as a Member of the World Heritage Committee, although this provision shall not apply to the first election.

   The terms of office of any such State which is already a member of the Committee shall terminate at the time of the elections provided for in Article 8, paragraph 1 of this Convention.

Article 17

The States Parties to this Convention shall consider or encourage the establishment of national public and private foundations or associations whose purpose is to invite donations for the protection of the cultural and natural heritage as defined in Articles 1 and 2 of this Convention.

Article 18

The States Parties to this Convention shall give their assistance to international fund-raising campaigns organized for the World Heritage Fund under the auspices of the United Nations Educational, Scientific and Cultural Organization. They shall facilitate collections made by the bodies mentioned in paragraph 3 of Article 15 for this purpose.

V. CONDITIONS AND ARRANGEMENTS FOR INTERNATIONAL ASSISTANCE

Article 19

Any State Party to this Convention may request international assistance for property forming part of the cultural or natural heritage of outstanding universal value situated within its territory. It shall submit with its request such information and documentation provided for in Article 21 as it has in its possession and as will enable the Committee to come to a decision.

Article 20

Subject to the provisions of paragraph 2 of Article 13, sub-paragraph (c) of Article 22 and Article 23, international assistance provided for by this Convention may be granted only to property forming part of the cultural and natural heritage which the World Heritage Committee has decided, or may decide, to enter in one of the lists mentioned in paragraphs 2 and 4 of Article 11.

Article 21

1. The World Heritage Committee shall define the procedure by which requests to it for international assistance shall be considered and shall specify the content of the request, which should define the operation contemplated, the work that is necessary, the expected cost thereof, the degree of urgency and the reasons why the resources of the State requesting assistance do not allow it to meet all the expenses. Such requests must be supported by experts' reports whenever possible.

2. Requests based upon disasters or natural calamities should, by reasons of the urgent work which they may involve, be given immediate, priority consideration by the Committee, which should have a reserve fund at its disposal against such contingencies.

3. Before coming to a decision, the Committee shall carry out such studies and consultations as it deems necessary.

Article 22

Assistance granted by the World Heritage Fund may take the following forms:

(a) studies concerning the artistic, scientific and technical problems raised by the protection, conservation, presentation and rehabilitation of the cultural and natural heritage, as defined in paragraphs 2 and 4 of Article 11 of this Convention;

(b) provisions of experts, technicians and skilled labour to ensure that the approved work is correctly carried out;

(c) training of staff and specialists at all levels in the field of identification, protection, conservation, presentation and rehabilitation of the cultural and natural heritage;

(d) supply of equipment which the State concerned does not possess or is not in a position to acquire;

(e) low-interest or interest-free loans which might be repayable on a long-term basis;

(f) the granting, in exceptional cases and for special reasons, of non-repayable subsidies.

Article 23

The World Heritage Committee may also provide international assistance to national or regional centres for the training of staff and specialists at all levels in the field of identification, protection, conservation, presentation and rehabilitation of the cultural and natural heritage.

Article 24

International assistance on a large scale shall be preceded by detailed scientific, economic and technical studies. These studies shall draw upon the most advanced techniques for the protection, conservation, presentation and rehabilitation of the natural and cultural heritage and shall be consistent with the objectives of this Convention. The studies shall also seek means of making rational use of the resources available in the State concerned.

Article 25

As a general rule, only part of the cost of work necessary shall be borne by the international community. The contribution of the State benefiting from international assistance shall constitute a substantial share of the resources devoted to each programme or project, unless its resources do not permit this.

Article 26

The World Heritage Committee and the recipient State shall define in the agreement they conclude the conditions in which a programme or project for which international assistance under the terms of this Convention is provided, shall be carried out. It shall be the responsibility of the State receiving such international assistance to continue to protect, conserve and present the property so safeguarded, in observance of the conditions laid down by the agreement.

VI. EDUCATIONAL PROGRAMMES

Article 27

1. The States Parties to this Convention shall endeavor by all appropriate means, and in particular by educational and information programmes, to strengthen appreciation and respect by their peoples of the cultural and natural heritage defined in Articles 1 and 2 of the Convention.

2. They shall undertake to keep the public broadly informed of the dangers threatening this heritage and of the activities carried on in pursuance of this Convention.

Article 28

States Parties to this Convention which receive international assistance under the Convention shall take appropriate measures to make known the importance of the property for which assistance has been received and the role played by such assistance.

VII. REPORTS

Article 29

1. The States Parties to this Convention shall, in the reports which they submit to the General Conference of the United Nations Educational, Scientific and Cultural Organization on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Convention, together with details of the experience acquired in this field.

2. These reports shall be brought to the attention of the World Heritage Committee.

3. The Committee shall submit a report on its activities at each of the ordinary sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organization.

VIII FINAL CLAUSES

Article 30

This Convention is drawn up in Arabic, English, French, Russian and Spanish, the five texts being equally authoritative.

Article 31

1. This Convention shall be subject to ratification or acceptance by States members of the United Nations Educational, Scientific and Cultural Organization in accordance with their respective constitutional procedures.

2. The instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 32

1. This Convention shall be open to accession by all States not members of the United Nations Educational, Scientific and Cultural Organization which are invited by the General Conference of the Organization to accede to it.

2. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 33

This Convention shall enter into force three months after the date of the deposit of the twentieth instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments of ratification, acceptance or accession on or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

Article 34

The following provisions shall apply to those States Parties to this Convention which have a federal or non-unitary constitutional system:

(a) with regard to the provisions of this Convention, the implementation of which comes under the legal jurisdiction of the federal or central legislative power, the obligations of the federal or central government shall be the same as for those States parties which are not federal States;

(b) with regard to the provisions of this Convention, the implementation of which comes under the legal jurisdiction of individual constituent States, countries, provinces or cantons that are not obliged by the constitutional system of the federation to take legislative measures, the federal government shall inform the competent authorities of such States, countries, provinces or cantons of the said provisions, with its recommendation for their adoption.

Article 35

1. Each State Party to this Convention may denounce the Convention.

2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation. It shall not affect the financial obligations of the denouncing State until the date on which the withdrawal takes effect.

Article 36

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States members of the Organization, the States not members of the Organization which are referred to in Article 32, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance, or accession provided for in Articles 31 and 32, and of the denunciations provided for in Article 35.

Article 37

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.

2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession, as from the date on which the new revising convention enters into force.

Article 38

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Done in Paris, this twenty-third day of November 1972, in two authentic copies bearing the signature of the President of the seventeenth session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in Articles 31 and 32 as well as to the United Nations.

SCHEDULE 4

Compulsory Acquisition of Archaeological Object Under *section 98*

Section 98

1. In this Schedule—

"owner", in relation to a relevant interest in an archaeological object, includes—

(a) a reputed owner of the interest, and

(b) in the case of *paragraph (b)* of the definition of "relevant interest", the owner of that interest immediately before the interest ceased to subsist in the object by virtue of the operation of a vesting order (archaeological object);

"relevant interest"—

(a) in relation to an archaeological object the subject of a notice under *paragraph 2(1)(a)*, means any property interest or right in or over the object that, if the Minister were to compulsorily acquire the object in the terms specified in the notice, would cease to subsist in the object by virtue of the vesting order (archaeological object) concerned, and

(b) in relation to an archaeological object the subject of a vesting order (archaeological object), means any property interest or right in or over the object that—

(i) subsisted in the object immediately before that order was made, and

(ii) has ceased to subsist in the object by virtue of that order;

"vesting order (archaeological object)" shall be construed in accordance with *paragraph 4(1)*.

2. (1) Subject to *subparagraph (2)*, where the Minister proposes to compulsorily acquire an archaeological object under *section 98* , he or she shall—

(a) (i) publish a notice stating his or her intention to acquire the archaeological object compulsorily under *section 98* —

(I) in *Iris Oifigiúil*, and

(II) in at least one national newspaper,

and

(ii) in the notice, specify a cut-off date (being a period of not less than 6 weeks immediately following the date of publication of the notice) for the purposes of *paragraph 3(1)*,

and

(b) give a copy of the notice under *clause (a)* to every owner of a relevant interest in the object whose name and address at which he or she ordinarily resides (whether in or outside the State) are known to the Minister.

(2) The Minister shall ensure that the discharge of his or her obligation under *subparagraph (1)(b)* in respect of an archaeological object occurs not later than 30 days after his or her discharge of an obligation under *subparagraph (1)(a)(i)(I)* in respect of that object.

3. (1) Any owner of a relevant interest in an archaeological object the subject of a notice under *paragraph 2(1)(a)* may, before the cut-off date specified in the notice, submit to the Minister an objection in the specified form (which may be a statutory declaration), setting out the grounds for the objection, to the proposed compulsory acquisition referred to in the notice.

(2) An owner who submitted an objection under *subparagraph (1)* may withdraw it by notice in writing given to the Minister.

(3) Where, in relation to the proposed compulsory acquisition of an archaeological object under *section 98* , an objection is submitted to the Minister in accordance with *subparagraph (1)* and is not withdrawn, the Minister shall consider the objection as soon as is practicable and, by notice in writing given to the owner who submitted the objection—

(a) decline to uphold the objection, for the reasons stated in the notice, in respect of all of the archaeological object to which the objection relates, or

(b) uphold the objection, for the reasons stated in the notice, in respect of all or part of the archaeological object to which the objection relates.

4. (1) Where, in relation to any archaeological object in respect of which *paragraph 2* has been complied with—

(a) no objection is submitted to the Minister in accordance with *paragraph 3*,

(b) any such objection which is submitted is subsequently withdrawn or the Minister's consideration of the objection under *paragraph 3(3)* results in the objection being—

(i) declined to be upheld under *paragraph 3(3)(a)*, or

(ii) upheld under *paragraph 3(3)(b)* but in respect of part only of that object,

and

(c) the Minister for Public Expenditure, National Development Plan Delivery and Reform gives his or her consent to the compulsory acquisition of the object by the Minister,

the Minister may by order (in this Schedule referred to as a "vesting order (archaeological object")) in the prescribed form, acquire the object (but excluding any part of that object referred to in *clause (b)(ii)*).

(2) A vesting order (archaeological object) shall be expressed and shall operate to vest the archaeological object to which it relates in the Minister free (subject to any exceptions expressly specified in the order) from any property interest or right in or over the object on a specified date not earlier than 21 days after the making of the order.

(3) Whenever the Minister makes a vesting order (archaeological object), he or she shall, within 14 days after making the order—

(a) publish a copy of it in *Iris Oifigiúil*, and

(b) give a copy of the order to every owner of a relevant interest in the archaeological object whose name and the address at which he or she ordinarily resides (whether in or outside the State) are known to the Minister.

5. (1) The owner of a relevant interest in an archaeological object the subject of a vesting order (archaeological object) may, within 3 months (or such longer period, not exceeding 6 months, as the Minister may in any particular case allow) from the date on which a copy of the order is published in *Iris Oifigiúil* in accordance with *paragraph 4(3)*, make an application in the specified form to the Minister to be paid compensation in respect of that interest.

(2) The Minister shall, as soon as practicable after receiving an application under *subparagraph (1)*, appoint a person (in this paragraph referred to as the "assessor") in respect of whom the Minister is satisfied has the requisite qualifications, knowledge and experience to carry out the assessment referred to in *subparagraph (3)*.

(3) The assessor shall, in respect of the application under *subparagraph (1)* which gave rise to his or her appointment as the assessor, as soon as is practicable after such appointment, consider the application and, applying his or her qualifications, knowledge and experience to the archaeological object the subject of the application, assess the specified sum of compensation (which may be a nil or token sum) that the assessor is of the opinion that the Minister ought to offer the owner who made the application in respect of the relevant interest concerned (in this paragraph referred to as the "assessed offer") and give notice in writing to the Minister of such assessment.

(4) Subject to *subparagraph (5)*, the Minister shall, as soon as is practicable after receiving a notice under *subparagraph (3)*—

(a) make the assessed offer, or

(b) decline to make the assessed offer and revoke the vesting order (archaeological object) concerned to the extent that the order relates to the relevant interest the subject of the assessed offer.

(5) The Minister shall not make the assessed offer unless he or she has the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform to do so.

(6) The assessor shall be independent in the performance of his or her functions under this paragraph.

(7) Nothing in this paragraph shall be construed to prevent an assessment of the value of an archaeological object being carried out for the purposes of the Minister's consideration of its acquisition under *section 98* .

(8) An assessor shall be paid such remuneration (if any) and such allowances for expenses as the Minister specifies in writing with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform.

SCHEDULE 5

UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects done at Rome on 24 June 1995

Section 117

(Rome, 24 June 1995

THE STATES PARTIES TO THIS CONVENTION,

ASSEMBLED in Rome at the invitation of the Government of the Italian Republic from 7 to 24 June 1995 for a Diplomatic Conference for the adoption of the draft UNIDROIT Convention on the International Return of Stolen or Illegally Exported Cultural Objects,

CONVINCED of the fundamental importance of the protection of cultural heritage and of cultural exchanges for promoting understanding between peoples, and the dissemination of culture for the well-being of humanity and the progress of civilisation,

DEEPLY CONCERNED by the illicit trade in cultural objects and the irreparable damage frequently caused by it, both to these objects themselves and to the cultural heritage of national, tribal, indigenous or other communities, and also to the heritage of all peoples, and in particular by the pillage of archaeological sites and the resulting loss of irreplaceable archaeological, historical and scientific information,

DETERMINED to contribute effectively to the fight against illicit trade in cultural objects by taking the important step of establishing common, minimal legal rules for the restitution and return of cultural objects between Contracting States, with the objective of improving the preservation and protection of the cultural heritage in the interest of all,

EMPHASISING that this Convention is intended to facilitate the restitution and return of cultural objects, and that the provision of any remedies, such as compensation, needed to effect restitution and return in some States, does not imply that such remedies should be adopted in other States,

AFFIRMING that the adoption of the provisions of this Convention for the future in no way confers any approval or legitimacy upon illegal transactions of whatever kind which may have taken place before the entry into force of the Convention,

CONSCIOUS that this Convention will not by itself provide a solution to the problems raised by illicit trade, but that it initiates a process that will enhance international cultural co-operation and maintain a proper role for legal trading and inter-State agreements for cultural exchanges,

ACKNOWLEDGING that implementation of this Convention should be accompanied by other effective measures for protecting cultural objects, such as the development and use of registers, the protection of archaeological sites and technical co-operation,

RECOGNISING the work of various bodies to protect cultural property, particularly the 1970 UNESCO Convention on illicit traffic and the development of codes of conduct in the private sector,

HAVE AGREED as follows:

CHAPTER I

SCOPE OF APPLICATION AND DEFINITION

Article 1

This Convention applies to claims of an international character for:

(a) the restitution of stolen cultural objects;

(b) the return of cultural objects removed from the territory of a Contracting State contrary to its law regulating the export of cultural objects for the purpose of protecting its cultural heritage (hereinafter “illegally exported cultural objects”).

Article 2

For the purposes of this Convention, cultural objects are those which, on religious or secular grounds, are of importance for archaeology, prehistory, history, literature, art or science and belong to one of the categories listed in the Annex to this Convention.

CHAPTER II

RESTITUTION OF STOLEN CULTURAL OBJECTS

Article 3

(1) The possessor of a cultural object which has been stolen shall return it.

(2) For the purposes of this Convention, a cultural object which has been unlawfully excavated or lawfully excavated but unlawfully retained shall be considered stolen, when consistent with the law of the State where the excavation took place.

(3) Any claim for restitution shall be brought within a period of three years from the time when the claimant knew the location of the cultural object and the identity of its possessor, and in any case within a period of fifty years from the time of the theft.

(4) However, a claim for restitution of a cultural object forming an integral part of an identified monument or archaeological site, or belonging to a public collection, shall not be subject to time limitations other than a period of three years from the time when the claimant knew the location of the cultural object and the identity of its possessor.

(5) Notwithstanding the provisions of the preceding paragraph, any Contracting State may declare that a claim is subject to a time limitation of 75 years or such longer period as is provided in its law. A claim made in another Contracting State for restitution of a cultural object displaced from a monument, archaeological site or public collection in a Contracting State making such a declaration shall also be subject to that time limitation.

(6) A declaration referred to in the preceding paragraph shall be made at the time of signature, ratification, acceptance, approval or accession.

(7) For the purposes of this Convention, a "public collection" consists of a group of inventoried or otherwise identified cultural objects owned by:

(a) a Contracting State

(b) a regional or local authority of a Contracting State;

(c) a religious institution in a Contracting State; or

(d) an institution that is established for an essentially cultural, educational or scientific purpose in a Contracting State and is recognised in that State as serving the public interest.

(8) In addition, a claim for restitution of a sacred or communally important cultural object belonging to and used by a tribal or indigenous community in a Contracting State as part of that community's traditional or ritual use, shall be subject to the time limitation applicable to public collections.

Article 4

(1) The possessor of a stolen cultural object required to return it shall be entitled, at the time of its restitution, to payment of fair and reasonable compensation provided that the possessor neither knew nor ought reasonably to have known that the object was stolen and can prove that it exercised due diligence when acquiring the object.

(2) Without prejudice to the right of the possessor to compensation referred to in the preceding paragraph, reasonable efforts shall be made to have the person who transferred the cultural object to the possessor, or any prior transferor, pay the compensation where to do so would be consistent with the law of the State in which the claim is brought.

(3) Payment of compensation to the possessor by the claimant, when this is required, shall be without prejudice to the right of the claimant to recover it from any other person.

(4) In determining whether the possessor exercised due diligence, regard shall be had to all the circumstances of the acquisition, including the character of the parties, the price paid, whether the possessor consulted any reasonably accessible register of stolen cultural objects, and any other relevant information and documentation which it could reasonably have obtained, and whether the possessor consulted accessible agencies or took any other step that a reasonable person would have taken in the circumstances.

(5) The possessor shall not be in a more favourable position than the person from whom it acquired the cultural object by inheritance or otherwise gratuitously.

CHAPTER III

RETURN OF ILLEGALLY EXPORTED CULTURAL OBJECTS

Article 5

(1) A Contracting State may request the court or other competent authority of another Contracting State to order the return of a cultural object illegally exported from the territory of the requesting State.

(2) A cultural object which has been temporarily exported from the territory of the requesting State, for purposes such as exhibition, research or restoration, under a permit issued according to its law regulating its export for the purpose of protecting its cultural heritage and not returned in accordance with the terms of that permit shall be deemed to have been illegally exported.

(3) The court or other competent authority of the State addressed shall order the return of an illegally exported cultural object if the requesting State establishes that the removal of the object from its territory significantly impairs one or more of the following interests:

(a) the physical preservation of the object or of its context;

(b) the integrity of a complex object;

(c) the preservation of information of, for example, a scientific or historical character;

(d) the traditional or ritual use of the object by a tribal or indigenous community,

or establishes that the object is of significant cultural importance for the requesting State.

(4) Any request made under paragraph 1 of this article shall contain or be accompanied by such information of a factual or legal nature as may assist the court or other competent authority of the State addressed in determining whether the requirements of paragraphs 1 to 3 have been met.

(5) Any request for return shall be brought within a period of three years from the time when the requesting State knew the location of the cultural object and the identity of its possessor, and in any case within a period of fifty years from the date of the export or from the date on which the object should have been returned under a permit referred to in paragraph 2 of this article.

Article 6

(1) The possessor of a cultural object who acquired the object after it was illegally exported shall be entitled, at the time of its return, to payment by the requesting State of fair and reasonable compensation, provided that the possessor neither knew nor ought reasonably to have known at the time of acquisition that the object had been illegally exported.

(2) In determining whether the possessor knew or ought reasonably to have known that the cultural object had been illegally exported, regard shall be had to the circumstances of the acquisition, including the absence of an export certificate required under the law of the requesting State.

(3) Instead of compensation, and in agreement with the requesting State, the possessor required to return the cultural object to that State, may decide:

(a) to retain ownership of the object; or

(b) to transfer ownership against payment or gratuitously to a person of its choice residing in the requesting State who provides the necessary guarantees.

(4) The cost of returning the cultural object in accordance with this article shall be borne by the requesting State, without prejudice to the right of that State to recover costs from any other person.

(5) The possessor shall not be in a more favourable position than the person from whom it acquired the cultural object by inheritance or otherwise gratuitously.

Article 7

(1) The provisions of this Chapter shall not apply where:

(a) the export of a cultural object is no longer illegal at the time at which the return is requested; or

(b) the object was exported during the lifetime of the person who created it or within a period of fifty years following the death of that person.

(2) Notwithstanding the provisions of sub-paragraph (b) of the preceding paragraph, the provisions of this Chapter shall apply where a cultural object was made by a member or members of a tribal or indigenous community for traditional or ritual use by that community and the object will be returned to that community.

CHAPTER IV

GENERAL PROVISIONS

Article 8

(1) A claim under Chapter II and a request under Chapter III may be brought before the courts or other competent authorities of the Contracting State where the cultural object is located, in addition to the courts or other competent authorities otherwise having jurisdiction under the rules in force in Contracting States.

(2) The parties may agree to submit the dispute to any court or other competent authority or to arbitration.

(3) Resort may be had to the provisional, including protective, measures available under the law of the Contracting State where the object is located even when the claim for restitution or request for return of the object is brought before the courts or other competent authorities of another Contracting State.

Article 9

(1) Nothing in this Convention shall prevent a Contracting State from applying any rules more favourable to the restitution or the return of stolen or illegally exported cultural objects than provided for by this Convention.

(2) This article shall not be interpreted as creating an obligation to recognise or enforce a decision of a court or other competent authority of another Contracting State that departs from the provisions of this Convention.

Article 10

(1) The provisions of Chapter II shall apply only in respect of a cultural object that is stolen after this Convention enters into force in respect of the State where the claim is brought, provided that:

(a) the object was stolen from the territory of a Contracting State after the entry into force of this Convention for that State; or

(b) the object is located in a Contracting State after the entry into force of the Convention for that State.

(2) The provisions of Chapter III shall apply only in respect of a cultural object that is illegally exported after this Convention enters into force for the requesting State as well as the State where the request is brought.

(3) This Convention does not in any way legitimise any illegal transaction of whatever nature which has taken place before the entry into force of this Convention or which is excluded under paragraphs (1) or (2) of this article, nor limit any right of a State or other person to make a claim under remedies available outside the framework of this Convention for the restitution or return of a cultural object stolen or illegally exported before the entry into force of this Convention.

CHAPTER V

FINAL PROVISIONS

Article 11

(1) This Convention is open for signature at the concluding meeting of the Diplomatic Conference for the adoption of the draft UNIDROIT Convention on the International Return of Stolen or Illegally Exported Cultural Objects and will remain open for signature by all States at Rome until 30 June 1996.

(2) This Convention is subject to ratification, acceptance or approval by States which have signed it.

(3) This Convention is open for accession by all States which are not signatory States as from the date it is open for signature.

(4) Ratification, acceptance, approval or accession is subject to the deposit of a formal instrument to that effect with the depositary.

Article 12

(1) This Convention shall enter into force on the first day of the sixth month following the date of deposit of the fifth instrument of ratification, acceptance, approval or accession.

(2) For each State that ratifies, accepts, approves or accedes to this Convention after the deposit of the fifth instrument of ratification, acceptance, approval or accession, this Convention shall enter into force in respect of that State on the first day of the sixth month following the date of deposit of its instrument of ratification, acceptance, approval or accession.

Article 13

(1) This Convention does not affect any international instrument by which any Contracting State is legally bound and which contains provisions on matters governed by this Convention, unless a contrary declaration is made by the States bound by such instrument.

(2) Any Contracting State may enter into agreements with one or more Contracting States, with a view to improving the application of this Convention in their mutual relations. The States which have concluded such an agreement shall transmit a copy to the depositary.

(3) In their relations with each other, Contracting States which are Members of organisations of economic integration or regional bodies may declare that they will apply the internal rules of these organisations or bodies and will not therefore apply as between these States the provisions of this Convention the scope of application of which coincides with that of those rules.

Article 14

(1) If a Contracting State has two or more territorial units, whether or not possessing different systems of law applicable in relation to the matters dealt with in this Convention, it may, at the time of signature or of the deposit of its instrument of ratification, acceptance, approval or accession, declare that this Convention is to extend to all its territorial units or only to one or more of them, and may substitute for its declaration another declaration at any time.

(2) These declarations are to be notified to the depositary and are to state expressly the territorial units to which the Convention extends.

(3) If, by virtue of a declaration under this article, this Convention extends to one or more but not all of the territorial units of a Contracting State, the reference to:

(a) the territory of a Contracting State in Article 1 shall be construed as referring to the territory of a territorial unit of that State;

(b) a court or other competent authority of the Contracting State or of the State addressed shall be construed as referring to the court or other competent authority of a territorial unit of that State;

(c) the Contracting State where the cultural object is located in Article 8 (1) shall be construed as referring to the territorial unit of that State where the object is located;

(d) the law of the Contracting State where the object is located in Article 8 (3) shall be construed as referring to the law of the territorial unit of that State where the object is located; and

(e) a Contracting State in Article 9 shall be construed as referring to a territorial unit of that State.

(4) If a Contracting State makes no declaration under paragraph 1 of this article, this Convention is to extend to all territorial units of that State.

Article 15

(1) Declarations made under this Convention at the time of signature are subject to confirmation upon ratification, acceptance or approval.

(2) Declarations and confirmations of declarations are to be in writing and to be formally notified to the depositary.

(3) A declaration shall take effect simultaneously with the entry into force of this Convention in respect of the State concerned. However, a declaration of which the depositary receives formal notification after such entry into force shall take effect on the first day of the sixth month following the date of its deposit with the depositary.

(4) Any State which makes a declaration under this Convention may withdraw it at any time by a formal notification in writing addressed to the depositary. Such withdrawal shall take effect on the first day of the sixth month following the date of the deposit of the notification.

Article 16

(1) Each Contracting State shall at the time of signature, ratification, acceptance, approval or accession, declare that claims for the restitution, or requests for the return, of cultural objects brought by a State under Article 8 may be submitted to it under one or more of the following procedures:

(a) directly to the courts or other competent authorities of the declaring State;

(b) through an authority or authorities designated by that State to receive such claims or requests and to forward them to the courts or other competent authorities of that State;

(c) through diplomatic or consular channels.

(2) Each Contracting State may also designate the courts or other authorities competent to order the restitution or return of cultural objects under the provisions of Chapters II and III.

(3) Declarations made under paragraphs 1 and 2 of this article may be modified at any time by a new declaration.

(4) The provisions of paragraphs 1 to 3 of this article do not affect bilateral or multilateral agreements on judicial assistance in respect of civil and commercial matters that may exist between Contracting States.

Article 17

Each Contracting State shall, no later than six months following the date of deposit of its instrument of ratification, acceptance, approval or accession, provide the depositary with written information in one of the official languages of the Convention concerning the legislation regulating the export of its cultural objects. This information shall be updated from time to time as appropriate.

Article 18

No reservations are permitted except those expressly authorised in this Convention.

Article 19

(1) This Convention may be denounced by any State Party, at any time after the date on which it enters into force for that State, by the deposit of an instrument to that effect with the depositary.

(2) A denunciation shall take effect on the first day of the sixth month following the deposit of the instrument of denunciation with the depositary. Where a longer period for the denunciation to take effect is specified in the instrument of denunciation it shall take effect upon the expiration of such longer period after its deposit with the depositary.

(3) Notwithstanding such a denunciation, this Convention shall nevertheless apply to a claim for restitution or a request for return of a cultural object submitted prior to the date on which the denunciation takes effect.

Article 20

The President of the International Institute for the Unification of Private Law (UNIDROIT) may at regular intervals, or at any time at the request of five Contracting States, convene a special committee in order to review the practical operation of this Convention.

Article 21

(1) This Convention shall be deposited with the Government of the Italian Republic.

(2) The Government of the Italian Republic shall:

(a) inform all States which have signed or acceded to this Convention and the President of the International Institute for the Unification of Private Law (UNIDROIT) of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

(ii) each declaration made in accordance with this Convention;

(iii) the withdrawal of any declaration;

(iv) the date of entry into force of this Convention;

(v) the agreements referred to in Article 13;

(vi) the deposit of an instrument of denunciation of this Convention together with the date of its deposit and the date on which it takes effect;

(b) transmit certified true copies of this Convention to all signatory States, to all States acceding to the Convention and to the President of the International Institute for the Unification of Private Law (UNIDROIT);

(c) perform such other functions customary for depositaries.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorised, have signed this Convention.

DONE at Rome, this twenty-fourth day of June, one thousand nine hundred and ninety-five, in a single original, in the English and French languages, both texts being equally authentic.

SCHEDULE 6

UNESCO Convention on Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property done in Paris on 17 November 1970

Section 125

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 12 October to 14 November 1970, at its sixteenth session,

Recalling the importance of the provisions contained in the Declaration of the Principles of International Cultural Co-operation, adopted by the General Conference at its fourteenth session,

Considering that the interchange of cultural property among nations for scientific, cultural and educational purposes increases the knowledge of the civilization of Man, enriches the cultural life of all peoples and inspires mutual respect and appreciation among nations,

Considering that cultural property constitutes one of the basic elements of civilization and national culture, and that its true value can be appreciated only in relation to the fullest possible information regarding its origin, history and traditional setting,

Considering that it is incumbent upon every State to protect the cultural property existing within its territory against the dangers of theft, clandestine excavation, and illicit export,

Considering that, to avert these dangers, it is essential for every State to become increasingly alive to the moral obligations to respect its own cultural heritage and that of all nations,

Considering that, as cultural institutions, museums, libraries and archives should ensure that their collections are built up in accordance with universally recognized moral principles,

Considering that the illicit import, export and transfer of ownership of cultural property is an obstacle to that understanding between nations which it is part of UNESCO's mission to promote by recommending to interested States, international conventions to this end,

Considering that the protection of cultural heritage can be effective only if organized both nationally and internationally among States working in close co-operation,

Considering that the UNESCO General Conference adopted a Recommendation to this effect in l964,

Having before it further proposals on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property, a question which is on the agenda for the session as item 19,

Having decided, at its fifteenth session, that this question should be made the subject of an international convention,

Adopts this Convention on the fourteenth day of November 1970.

Article 1

For the purposes of this Convention, the term “cultural property” means property which, on religious or secular grounds, is specifically designated by each State as being of importance for archaeology, prehistory, history, literature, art or science and which belongs to the following categories:

(a) Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;

(b) Property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artist and to events of national importance;

(c) Products of archaeological excavations (including regular and clandestine) or of archaeological discoveries ;

(d) Elements of artistic or historical monuments or archaeological sites which have been dismembered;

(e) Antiquities more than one hundred years old, such as inscriptions, coins and engraved seals;

(f) Objects of ethnological interest;

(g) Property of artistic interest, such as:

(i) pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manu-factured articles decorated by hand);

(ii) original works of statuary art and sculpture in any material;

(iii) original engravings, prints and lithographs ;

(iv) original artistic assemblages and montages in any material;

(h) Rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections ;

(i) Postage, revenue and similar stamps, singly or in collections;

(j) Archives, including sound, photographic and cinematographic archives;

(k) Articles of furniture more than one hundred years old and old musical instruments.

Article 2

1. The States Parties to this Convention recognize that the illicit import, export and transfer of ownership of cultural property is one of the main causes of the impoverishment of the cultural heritage of the countries of origin of such property and that international co-operation constitutes one of the most efficient means of protecting each country’s cultural property against all the dangers resulting therefrom.

2. To this end, the States Parties undertake to oppose such practices with the means at their disposal, and particularly by removing their causes, putting a stop to current practices, and by helping to make the necessary reparations.

Article 3

The import, export or transfer of ownership of cultural property effected contrary to the provisions adopted under this Convention by the States Parties thereto, shall be illicit.

Article 4

The States Parties to this Convention recognize that for the purpose of the Convention property which belongs to the following categories forms part of the cultural heritage of each State:

(a) Cultural property created by the individual or collective genius of nationals of the State concerned, and cultural property of importance to the State concerned created within the territory of that State by foreign nationals or stateless persons resident within such territory;

(b) Cultural property found within the national territory;

(c) Cultural property acquired by archaeological, ethnological or natural science missions, with the consent of the competent authorities of the country of origin of such property;

(d) Cultural property which has been the subject of a freely agreed exchange;

(e) Cultural property received as a gift or purchased legally with the consent of the competent authorities of the country of origin of such property.

Article 5

To ensure the protection of their cultural property against illicit import, export and transfer of ownership, the States Parties to this Convention undertake, as appropriate for each country, to set up within their territories one or more national services, where such services do not already exist, for the protection of the cultural heritage, with a qualified staff sufficient in number for the effective carrying out of the following functions:

(a) Contributing to the formation of draft laws and regulations designed to secure the protection of the cultural heritage and particularly prevention of the illicit import, export and transfer of ownership of important cultural property;

(b) Establishing and keeping up to date, on the basis of a national inventory of protected property, a list of important public and private cultural property whose export would constitute an appreciable impoverishment of the national cultural heritage;

(c) Promoting the development or the establishment of scientific and technical institutions (museums, libraries, archives, laboratories, workshops…) required to ensure the preservation and presentation of cultural property;

(d) Organizing the supervision of archaeological excavations, ensuring the preservation in situ of certain cultural property, and protecting certain areas reserved for future archaeological research;

(e) Establishing, for the benefit of those concerned (curators, collectors, antique dealers, etc.) rules in conformity with the ethical principles set forth in this Convention; and taking steps to ensure the observance of those rules;

(f) Taking educational measures to stimulate and develop respect for the cultural heritage of all States, and spreading knowledge of the provisions of this Convention;

(g) Seeing that appropriate publicity is given to the disappearance of any items of cultural property.

Article 6

The States Parties to this Convention undertake:

(a) To introduce an appropriate certificate in which the exporting State would specify that the export of the cultural property in question is authorized. The certificate should accompany all items of cultural property exported in accordance with the regulations;

(b) To prohibit the exportation of cultural property from their territory unless accompanied by the above-mentioned export certificate;

(c) To publicize this prohibition by appropriate means, particularly among persons likely to export or import cultural property.

Article 7

The States Parties to this Convention undertake:

(a) To take the necessary measures, consistent with national legislation, to prevent museums and similar institutions within their territories from acquiring cultural property originating in another State Party which has been illegally exported after entry into force of this Convention, in the States concerned. Whenever possible, to inform a State of origin Party to this Convention of an offer of such cultural property illegally removed from that State after the entry into force of this Convention in both States;

(b) (i) to prohibit the import of cultural property stolen from a museum or a religious or secular public monument or similar institution in another State Party to this Convention after the entry into force of this Convention for the States concerned, provided that such property is documented as appertaining to the inventory of that institution;

(ii) at the request of the State Party of origin, to take appropriate steps to recover and return any such cultural property imported after the entry into force of this Convention in both States concerned, provided, however, that the requesting State shall pay just compensation to an innocent purchaser or to a person who has valid title to that property. Requests for recovery and return shall be made through diplomatic offices. The requesting Party shall furnish, at its expense, the documentation and other evidence necessary to establish its claim for recovery and return. The Parties shall impose no customs duties or other charges upon cultural property returned pursuant to this Article. All expenses incident to the return and delivery of the cultural property shall be borne by the requesting Party.

Article 8

The States Parties to this Convention undertake to impose penalties or administrative sanctions on any person responsible for infringing the prohibitions referred to under Articles 6(b) and 7(b) above.

Article 9

Any State Party to this Convention whose cultural patrimony is in jeopardy from pillage of archaeological or ethnological materials may call upon other States Parties who are affected. The States Parties to this Convention undertake, in these circumstances, to participate in a concerted international effort to determine and to carry out the necessary concrete measures, including the control of exports and imports and international commerce in the specific materials concerned. Pending agreement each State concerned shall take provisional measures to the extent feasible to prevent irremediable injury to the cultural heritage of the requesting State.

Article 10

The States Parties to this Convention undertake:

(a) To restrict by education, information and vigilance, movement of cultural property illegally removed from any State Party to this Convention and, as appropriate for each country, oblige antique dealers, subject to penal or administrative sanctions, to maintain a register recording the origin of each item of cultural property, names and addresses of the supplier, description and price of each item sold and to inform the purchaser of the cultural property of the export prohibition to which such property may be subject;

(b) To endeavour by educational means to create and develop in the public mind a realization of the value of cultural property and the threat to the cultural heritage created by theft, clandestine excavations and illicit exports.

Article 11

The export and transfer of ownership of cultural property under compulsion arising directly or indirectly from the occupation of a country by a foreign power shall be regarded as illicit.

Article 12

The States Parties to this Convention shall respect the cultural heritage within the territories for the international relations of which they are responsible, and shall take all appropriate measures to prohibit and prevent the illicit import, export and transfer of ownership of cultural property in such territories.

Article 13

The States Parties to this Convention also undertake, consistent with the laws of each State:

(a) To prevent by all appropriate means transfers of ownership of cultural property likely to promote the illicit import or export of such property;

(b) To ensure that their competent services co-operate in facilitating the earliest possible restitution of illicitly exported cultural property to its rightful owner;

(c) To admit actions for recovery of lost or stolen items of cultural property brought by or on behalf of the rightful owners;

(d) To recognize the indefeasible right of each State Party to this Convention to classify and declare certain cultural property as inalienable which should therefore ipso facto not be exported, and to facilitate recovery of such property by the State concerned in cases where it has been exported.

Article 14

In order to prevent illicit export and to meet the obligations arising from the implementation of this Convention, each State Party to the Convention should, as far as it is able, provide the national services responsible for the protection of its cultural heritage with an adequate budget and, if necessary, should set up a fund for this purpose.

Article 15

Nothing in this Convention shall prevent States Parties thereto from concluding special agreements among themselves or from continuing to implement agreements already concluded regarding the restitution of cultural property removed, whatever the reason, from its territory of origin, before the entry into force of this Convention for the States concerned.

Article 16

The States Parties to this Convention shall in their periodic reports submitted to the General Conference of the United Nations Educational, Scientific and Cultural Organization on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Convention, together with details of the experience acquired in this field.

Article 17

1. The States Parties to this Convention may call on the technical assistance of the United Nations Educational, Scientific and Cultural Organization, particularly as regards:

    (a) Information and education;

    (b) Consultation and expert advice;

    (c) Coordination and good offices.

2. The United Nations Educational, Scientific and Cultural Organization may, on its own initiative conduct research and publish studies on matters relevant to the illicit movement of cultural property.

3. To this end, the United Nations Educational, Scientific and Cultural Organization may also call on the co-operation of any competent non-governmental organization.

4. The United Nations Educational, Scientific and Cultural Organization may, on its own initiative, make proposals to States Parties to this Convention for its implementation.

5. At the request of at least two States Parties to this Convention which are engaged in a dispute over its implementation, UNESCO may extend its good offices to reach a settlement between them.

Article 18

This Convention is drawn up in English, French, Russian and Spanish, the four texts being equally authoritative.

Article 19

1. This Convention shall be subject to ratification or acceptance by States members of the United Nations Educational, Scientific and Cultural Organization in accordance with their respective constitutional procedures.

2. The instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 20

1. This Convention shall be open to accession by all States not members of the United Nations Educational, Scientific and Cultural Organization which are invited to accede to it by the Executive Board of the Organization.

2. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 21

This Convention shall enter into force three months after the date of the deposit of the third instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments on or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

Article 22

The States Parties to this Convention recognize that the Convention is applicable not only to their metropolitan territories but also to all territories for the international relations of which they are responsible; they undertake to consult, if necessary, the governments or other competent authorities of these territories on or before ratification, acceptance or accession with a view to securing the application of the Convention to those territories, and to notify the Director-General of the United Nations Educational, Scientific and Cultural Organization of the territories to which it is applied, the notification to take effect three months after the date of its receipt.

Article 23

1. Each State Party to this Convention may denounce the Convention on its own behalf or on behalf of any territory for whose international relations it is responsible.

2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation.

Article 24

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States members of the Organization, the States not members of the Organization which are referred to in Article 20, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance and accession provided for in Articles 19 and 20, and of the notifications and denunciations provided for in Articles 22 and 23 respectively.

Article 25

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.

2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession, as from the date on which the new revising convention enters into force.

Article 26

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Done in Paris this seventeenth day of November 1970, in two authentic copies bearing the signature of the President of the sixteenth session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in Articles 19 and 20 as well as to the United Nations.

SCHEDULE 7

UNESCO Convention on Protection of Underwater Cultural Heritage done in Paris on 6 November 2001

Section 137

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 15 October to 3 November 2001, at its 31st session,

Acknowledging the importance of underwater cultural heritage as an integral part of the cultural heritage of humanity and a particularly important element in the history of peoples, nations, and their relations with each other concerning their common heritage,

Realizing the importance of protecting and preserving the underwater cultural heritage and that responsibility therefor rests with all States,

Noting growing public interest in and public appreciation of underwater cultural heritage,

Convinced of the importance of research, information and education to the protection and preservation of underwater cultural heritage,

Convinced of the public's right to enjoy the educational and recreational benefits of responsible non-intrusive access to in situ underwater cultural heritage, and of the value of public education to contribute to awareness, appreciation and protection of that heritage,

Aware of the fact that underwater cultural heritage is threatened by unauthorized activities directed at it, and of the need for stronger measures to prevent such activities,

Conscious of the need to respond appropriately to the possible negative impact on underwater cultural heritage of legitimate activities that may incidentally affect it,

Deeply concerned by the increasing commercial exploitation of underwater cultural heritage, and in particular by certain activities aimed at the sale, acquisition or barter of underwater cultural heritage,

Aware of the availability of advanced technology that enhances discovery of and access to underwater cultural heritage,

Believing that cooperation among States, international organizations, scientific institutions, professional organizations, archaeologists, divers, other interested parties and the public at large is essential for the protection of underwater cultural heritage,

Considering that survey, excavation and protection of underwater cultural heritage necessitate the availability and application of special scientific methods and the use of suitable techniques and equipment as well as a high degree of professional specialization, all of which indicate a need for uniform governing criteria,

Realizing the need to codify and progressively develop rules relating to the protection and preservation of underwater cultural heritage in conformity with international law and practice, including the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 14 November 1970, the UNESCO Convention for the Protection of the World Cultural and Natural Heritage of 16 November 1972 and the United Nations Convention on the Law of the Sea of 10 December 1982,

Committed to improving the effectiveness of measures at international, regional and national levels for the preservation in situ or, if necessary for scientific or protective purposes, the careful recovery of underwater cultural heritage,

Having decided at its twenty-ninth session that this question should be made the subject of an international convention,

Adopts this second day of November 2001 this Convention

Article 1

Definitions

For the purposes of this Convention:

1. (a) "Underwater cultural heritage" means all traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least 100 years such as:

(i) sites, structures, buildings, artefacts and human remains, together with their archaeological and natural context;

(ii) vessels, aircraft, other vehicles or any part thereof, their cargo or other contents, together with their archaeological and natural context; and

(iii) objects of prehistoric character.

(b) Pipelines and cables placed on the seabed shall not be considered as underwater cultural heritage.

(c) Installations other than pipelines and cables, placed on the seabed and still in use, shall not be considered as underwater cultural heritage.

2. (a) "States Parties" means States which have consented to be bound by this Convention and for which this Convention is in force.

   (b) This Convention applies mutatis mutandis to those territories referred to in Article 26, paragraph 2(b), which become Parties to this Convention in accordance with the conditions set out in that paragraph, and to that extent "States Parties" refers to those territories.

3. "UNESCO" means the United Nations Educational, Scientific and Cultural Organization.

4. "Director-General" means the Director-General of UNESCO.

5. "Area" means the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction.

6. "Activities directed at underwater cultural heritage" means activities having underwater cultural heritage as their primary object and which may, directly or indirectly, physically disturb or otherwise damage underwater cultural heritage.

7. "Activities incidentally affecting underwater cultural heritage" means activities which, despite not having underwater cultural heritage as their primary object or one of their objects, may physically disturb or otherwise damage underwater cultural heritage.

8. "State vessels and aircraft" means warships, and other vessels or aircraft that were owned or operated by a State and used, at the time of sinking, only for government non-commercial purposes, that are identified as such and that meet the definition of underwater cultural heritage.

9. "Rules" means the Rules concerning activities directed at underwater cultural heritage, as referred to in Article 33 of this Convention.

Article 2

Objectives and general principles

1. This Convention aims to ensure and strengthen the protection of underwater cultural heritage.

2. States Parties shall cooperate in the protection of underwater cultural heritage.

3. States Parties shall preserve underwater cultural heritage for the benefit of humanity in conformity with the provisions of this Convention.

4. States Parties shall, individually or jointly as appropriate, take all appropriate measures in conformity with this Convention and with international law that are necessary to protect underwater cultural heritage, using for this purpose the best practicable means at their disposal and in accordance with their capabilities.

5. The preservation in situ of underwater cultural heritage shall be considered as the first option before allowing or engaging in any activities directed at this heritage.

6. Recovered underwater cultural heritage shall be deposited, conserved and managed in a manner that ensures its long-term preservation.

7. Underwater cultural heritage shall not be commercially exploited.

8. Consistent with State practice and international law, including the United Nations Convention on the Law of the Sea, nothing in this Convention shall be interpreted as modifying the rules of international law and State practice pertaining to sovereign immunities, nor any State's rights with respect to its State vessels and aircraft.

9. States Parties shall ensure that proper respect is given to all human remains located in maritime waters.

10. Responsible non-intrusive access to observe or document in situ underwater cultural heritage shall be encouraged to create public awareness, appreciation, and protection of the heritage except where such access is incompatible with its protection and management.

11. No act or activity undertaken on the basis of this Convention shall constitute grounds for claiming, contending or disputing any claim to national sovereignty or jurisdiction.

Article 3

Relationship between this Convention and the United Nations Convention on the Law of the Sea

Nothing in this Convention shall prejudice the rights, jurisdiction and duties of States under international law, including the United Nations Convention on the Law of the Sea. This Convention shall be interpreted and applied in the context of and in a manner consistent with international law, including the United Nations Convention on the Law of the Sea.

Article 4

Relationship to law of salvage and law of finds

Any activity relating to underwater cultural heritage to which this Convention applies shall not be subject to the law of salvage or law of finds, unless it:

(a) is authorized by the competent authorities, and

(b) is in full conformity with this Convention, and

(c) ensures that any recovery of the underwater cultural heritage achieves its maximum protection.

Article 5

Activities incidentally affecting underwater cultural heritage

Each State Party shall use the best practicable means at its disposal to prevent or mitigate any adverse effects that might arise from activities under its jurisdiction incidentally affecting underwater cultural heritage.

Article 6

Bilateral, regional or other multilateral agreements

1. States Parties are encouraged to enter into bilateral, regional or other multilateral agreements or develop existing agreements, for the preservation of underwater cultural heritage. All such agreements shall be in full conformity with the provisions of this Convention and shall not dilute its universal character. States may, in such agreements, adopt rules and regulations which would ensure better protection of underwater cultural heritage than those adopted in this Convention.

2. The Parties to such bilateral, regional or other multilateral agreements may invite States with a verifiable link, especially a cultural, historical or archaeological link, to the underwater cultural heritage concerned to join such agreements.

3. This Convention shall not alter the rights and obligations of States Parties regarding the protection of sunken vessels, arising from other bilateral, regional or other multilateral agreements concluded before its adoption, and, in particular, those that are in conformity with the purposes of this Convention.

Article 7

Underwater cultural heritage in internal waters, archipelagic waters and territorial sea

1. States Parties, in the exercise of their sovereignty, have the exclusive right to regulate and authorize activities directed at underwater cultural heritage in their internal waters, archipelagic waters and territorial sea.

2. Without prejudice to other international agreements and rules of international law regarding the protection of underwater cultural heritage, States Parties shall require that the Rules be applied to activities directed at underwater cultural heritage in their internal waters, archipelagic waters and territorial sea.

3. Within their archipelagic waters and territorial sea, in the exercise of their sovereignty and in recognition of general practice among States, States Parties, with a view to cooperating on the best methods of protecting State vessels and aircraft, should inform the flag State Party to this Convention and, if applicable, other States with a verifiable link, especially a cultural, historical or archaeological link, with respect to the discovery of such identifiable State vessels and aircraft.

Article 8

Underwater cultural heritage in the contiguous zone

Without prejudice to and in addition to Articles 9 and 10, and in accordance with Article 303, paragraph 2, of the United Nations Convention on the Law of the Sea, States Parties may regulate and authorize activities directed at underwater cultural heritage within their contiguous zone. In so doing, they shall require that the Rules be applied.

Article 9

Reporting and notification in the exclusive economic zone and on the continental shelf

1. All States Parties have a responsibility to protect underwater cultural heritage in the exclusive economic zone and on the continental shelf in conformity with this Convention.

Accordingly:

(a) a State Party shall require that when its national, or a vessel flying its flag, discovers or intends to engage in activities directed at underwater cultural heritage located in its exclusive economic zone or on its continental shelf, the national or the master of the vessel shall report such discovery or activity to it;

(b) in the exclusive economic zone or on the continental shelf of another State Party:

(i) States Parties shall require the national or the master of the vessel to report such discovery or activity to them and to that other State Party;

(ii) alternatively, a State Party shall require the national or master of the vessel to report such discovery or activity to it and shall ensure the rapid and effective transmission of such reports to all other States Parties.

2. On depositing its instrument of ratification, acceptance, approval or accession, a State Party shall declare the manner in which reports will be transmitted under paragraph 1(b) of this Article.

3. A State Party shall notify the Director-General of discoveries or activities reported to it under paragraph 1 of this Article.

4. The Director-General shall promptly make available to all States Parties any information notified to him under paragraph 3 of this Article.

5. Any State Party may declare to the State Party in whose exclusive economic zone or on whose continental shelf the underwater cultural heritage is located its interest in being consulted on how to ensure the effective protection of that underwater cultural heritage. Such declaration shall be based on a verifiable link, especially a cultural, historical or archaeological link, to the underwater cultural heritage concerned.

Article 10

Protection of underwater cultural heritage in the exclusive economic zone and on the continental shelf

1. No authorization shall be granted for an activity directed at underwater cultural heritage located in the exclusive economic zone or on the continental shelf except in conformity with the provisions of this Article.

2. A State Party in whose exclusive economic zone or on whose continental shelf underwater cultural heritage is located has the right to prohibit or authorize any activity directed at such heritage to prevent interference with its sovereign rights or jurisdiction as provided for by international law including the United Nations Convention on the Law of the Sea.

3. Where there is a discovery of underwater cultural heritage or it is intended that activity shall be directed at underwater cultural heritage in a State Party's exclusive economic zone or on its continental shelf, that State Party shall:

    (a) consult all other States Parties which have declared an interest under Article 9, paragraph 5, on how best to protect the underwater cultural heritage;

    (b) coordinate such consultations as "Coordinating State", unless it expressly declares that it does not wish to do so, in which case the States Parties which have declared an interest under Article 9, paragraph 5, shall appoint a Coordinating State.

4. Without prejudice to the duty of all States Parties to protect underwater cultural heritage by way of all practicable measures taken in accordance with international law to prevent immediate danger to the underwater cultural heritage, including looting, the Coordinating State may take all practicable measures, and/or issue any necessary authorizations in conformity with this Convention and, if necessary prior to consultations, to prevent any immediate danger to the underwater cultural heritage, whether arising from human activities or any other cause, including looting. In taking such measures assistance may be requested from other States Parties.

5. The Coordinating State:

    (a) shall implement measures of protection which have been agreed by the consulting States, which include the Coordinating State, unless the consulting States, which include the Coordinating State, agree that another State Party shall implement those measures;

    (b) shall issue all necessary authorizations for such agreed measures in conformity with the Rules, unless the consulting States, which include the Coordinating State, agree that another State Party shall issue those authorizations;

(c) may conduct any necessary preliminary research on the underwater cultural heritage and shall issue all necessary authorizations therefore, and shall promptly inform the Director-General of the results, who in turn will make such information promptly available to other States Parties.

6. In coordinating consultations, taking measures, conducting preliminary research and/or issuing authorizations pursuant to this Article, the Coordinating State shall act on behalf of the States Parties as a whole and not in its own interest. Any such action shall not in itself constitute a basis for the assertion of any preferential or jurisdictional rights not provided for in international law, including the United Nations Convention on the Law of the Sea.

7. Subject to the provisions of paragraphs 2 and 4 of this Article, no activity directed at State vessels and aircraft shall be conducted without the agreement of the flag State and the collaboration of the Coordinating State.

Article 11

Reporting and notification in the Area

1. States Parties have a responsibility to protect underwater cultural heritage in the Area in conformity with this Convention and Article 149 of the United Nations Convention on the Law of the Sea. Accordingly when a national, or a vessel flying the flag of a State Party, discovers or intends to engage in activities directed at underwater cultural heritage located in the Area, that State Party shall require its national, or the master of the vessel, to report such discovery or activity to it.

2. States Parties shall notify the Director-General and the Secretary-General of the International Seabed Authority of such discoveries or activities reported to them.

3. The Director-General shall promptly make available to all States Parties any such information supplied by States Parties.

4. Any State Party may declare to the Director-General its interest in being consulted on how to ensure the effective protection of that underwater cultural heritage. Such declaration shall be based on a verifiable link to the underwater cultural heritage concerned, particular regard being paid to the preferential rights of States of cultural, historical or archaeological origin.

Article 12

Protection of underwater cultural heritage in the Area

1. No authorization shall be granted for any activity directed at underwater cultural heritage located in the Area except in conformity with the provisions of this Article.

2. The Director-General shall invite all States Parties which have declared an interest under Article 11, paragraph 4, to consult on how best to protect the underwater cultural heritage, and to appoint a State Party to coordinate such consultations as the "Coordinating State". The Director-General shall also invite the International Seabed Authority to participate in such consultations.

3. All States Parties may take all practicable measures in conformity with this Convention, if necessary prior to consultations, to prevent any immediate danger to the underwater cultural heritage, whether arising from human activity or any other cause including looting.

4. The Coordinating State shall:

(a) implement measures of protection which have been agreed by the consulting States, which include the Coordinating State, unless the consulting States, which include the Coordinating State, agree that another State Party shall implement those measures; and

(b) issue all necessary authorizations for such agreed measures, in conformity with this Convention, unless the consulting States, which include the Coordinating State, agree that another State Party shall issue those authorizations.

5. The Coordinating State may conduct any necessary preliminary research on the underwater cultural heritage and shall issue all necessary authorizations therefor, and shall promptly inform the Director-General of the results, who in turn shall make such information available to other States Parties.

6. In coordinating consultations, taking measures, conducting preliminary research, and/or issuing authorizations pursuant to this Article, the Coordinating State shall act for the benefit of humanity as a whole, on behalf of all States Parties. Particular regard shall be paid to the preferential rights of States of cultural, historical or archaeological origin in respect of the underwater cultural heritage concerned.

7. No State Party shall undertake or authorize activities directed at State vessels and aircraft in the Area without the consent of the flag State.

Article 13

Sovereign immunity

Warships and other government ships or military aircraft with sovereign immunity, operated for non-commercial purposes, undertaking their normal mode of operations, and not engaged in activities directed at underwater cultural heritage, shall not be obliged to report discoveries of underwater cultural heritage under Articles 9, 10, 11 and 12 of this Convention. However States Parties shall ensure, by the adoption of appropriate measures not impairing the operations or operational capabilities of their warships or other government ships or military aircraft with sovereign immunity operated for non-commercial purposes, that they comply, as far as is reasonable and practicable, with Articles 9, 10, 11 and 12 of this Convention.

Article 14

Control of entry into the territory, dealing and possession

States Parties shall take measures to prevent the entry into their territory, the dealing in, or the possession of, underwater cultural heritage illicitly exported and/or recovered, where recovery was contrary to this Convention.

Article 15

Non-use of areas under the jurisdiction of States Parties

States Parties shall take measures to prohibit the use of their territory, including their maritime ports, as well as artificial islands, installations and structures under their exclusive jurisdiction or control, in support of any activity directed at underwater cultural heritage which is not in conformity with this Convention.

Article 10

Measures relating to nationals and vessels

States Parties shall take all practicable measures to ensure that their nationals and vessels flying their flag do not engage in any activity directed at underwater cultural heritage in a manner not in conformity with this Convention.

Article 17

Sanctions

1. Each State Party shall impose sanctions for violations of measures it has taken to implement this Convention.

2. Sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance with this Convention and to discourage violations wherever they occur and shall deprive offenders of the benefit deriving from their illegal activities.

3. States Parties shall cooperate to ensure enforcement of sanctions imposed under this Article.

Article 18

Seizure and disposition of underwater cultural heritage

1. Each State Party shall take measures providing for the seizure of underwater cultural heritage in its territory that has been recovered in a manner not in conformity with this Convention.

2. Each State Party shall record, protect and take all reasonable measures to stabilize underwater cultural heritage seized under this Convention.

3. Each State Party shall notify the Director-General and any other State with a verifiable link, especially a cultural, historical or archaeological link, to the underwater cultural heritage concerned of any seizure of underwater cultural heritage that it has made under this Convention.

4. A State Party which has seized underwater cultural heritage shall ensure that its disposition be for the public benefit, taking into account the need for conservation and research; the need for reassembly of a dispersed collection; the need for public access, exhibition and education; and the interests of any State with a verifiable link, especially a cultural, historical or archaeological link, in respect of the underwater cultural heritage concerned.

Article 19

Cooperation and information-sharing

1. States Parties shall cooperate and assist each other in the protection and management of underwater cultural heritage under this Convention, including, where practicable, collaborating in the investigation, excavation, documentation, conservation, study and presentation of such heritage.

2. To the extent compatible with the purposes of this Convention, each State Party undertakes to share information with other States Parties concerning underwater cultural heritage, including discovery of heritage, location of heritage, heritage excavated or recovered contrary to this Convention or otherwise in violation of international law, pertinent scientific methodology and technology, and legal developments relating to such heritage.

3. Information shared between States Parties, or between UNESCO and States Parties, regarding the discovery or location of underwater cultural heritage shall, to the extent compatible with their national legislation, be kept confidential and reserved to competent authorities of States Parties as long as the disclosure of such information might endanger or otherwise put at risk the preservation of such underwater cultural heritage.

4. Each State Party shall take all practicable measures to disseminate information, including where feasible through appropriate international databases, about underwater cultural heritage excavated or recovered contrary to this Convention or otherwise in violation of international law.

Article 20

Public awareness

Each State Party shall take all practicable measures to raise public awareness regarding the value and significance of underwater cultural heritage and the importance of protecting it under this Convention.

Article 21

Training in underwater archaeology

States Parties shall cooperate in the provision of training in underwater archaeology, in techniques for the conservation of underwater cultural heritage and, on agreed terms, in the transfer of technology relating to underwater cultural heritage.

Article 22

Competent authorities

1. In order to ensure the proper implementation of this Convention, States Parties shall establish competent authorities or reinforce the existing ones where appropriate, with the aim of providing for the establishment, maintenance and updating of an inventory of underwater cultural heritage, the effective protection, conservation, presentation and management of underwater cultural heritage, as well as research and education.

2. States Parties shall communicate to the Director-General the names and addresses of their competent authorities relating to underwater cultural heritage.

Article 23

Meetings of States Parties

1. The Director-General shall convene a Meeting of States Parties within one year of the entry into force of this Convention and thereafter at least once every two years. At the request of a majority of States Parties, the Director-General shall convene an Extraordinary Meeting of States Parties.

2. The Meeting of States Parties shall decide on its functions and responsibilities.

3. The Meeting of States Parties shall adopt its own Rules of Procedure.

4. The Meeting of States Parties may establish a Scientific and Technical Advisory Body composed of experts nominated by the States Parties with due regard to the principle of equitable geographical distribution and the desirability of a gender balance.

5. The Scientific and Technical Advisory Body shall appropriately assist the Meeting of States Parties in questions of a scientific or technical nature regarding the implementation of the Rules.

Article 24

Secretariat for this Convention

1. The Director-General shall be responsible for the functions of the Secretariat for this Convention.

2. The duties of the Secretariat shall include:

(a) organizing Meetings of States Parties as provided for in Article 23, paragraph 1; and

(b) assisting States Parties in implementing the decisions of the Meetings of States Parties.

Article 25

Peaceful settlement of disputes

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention shall be subject to negotiations in good faith or other peaceful means of settlement of their own choice.

2. If those negotiations do not settle the dispute within a reasonable period of time, it may be submitted to UNESCO for mediation, by agreement between the States Parties concerned.

3. If mediation is not undertaken or if there is no settlement by mediation, the provisions relating to the settlement of disputes set out in Part XV of the United Nations Convention on the Law of the Sea apply mutatis mutandis to any dispute between States Parties to this Convention concerning the interpretation or application of this Convention, whether or not they are also Parties to the United Nations Convention on the Law of the Sea.

4. Any procedure chosen by a State Party to this Convention and to the United Nations Convention on the Law of the Sea pursuant to Article 287 of the latter shall apply to the settlement of disputes under this Article, unless that State Party, when ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, chooses another procedure pursuant to Article 287 for the purpose of the settlement of disputes arising out of this Convention.

5. A State Party to this Convention which is not a Party to the United Nations Convention on the Law of the Sea, when ratifying, accepting, approving or acceding to this Convention or at any time thereafter shall be free to choose, by means of a written declaration, one or more of the means set out in Article 287, paragraph 1, of the United Nations Convention on the Law of the Sea for the purpose of settlement of disputes under this Article. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is party, which is not covered by a declaration in force. For the purpose of conciliation and arbitration, in accordance with Annexes V and VII of the United Nations Convention on the Law of the Sea, such State shall be entitled to nominate conciliators and arbitrators to be included in the lists referred to in Annex V, Article 2, and Annex VII, Article 2, for the settlement of disputes arising out of this Convention.

Article 26

Ratification, acceptance, approval or accession

1. This Convention shall be subject to ratification, acceptance or approval by Member States of UNESCO.

2. This Convention shall be subject to accession:

(a) by States that are not members of UNESCO but are members of the United Nations or of a specialized agency within the United Nations system or of the International Atomic Energy Agency, as well as by States Parties to the Statute of the International Court of Justice and any other State invited to accede to this Convention by the General Conference of UNESCO;

(b) by territories which enjoy full internal self-government, recognized as such by the United Nations, but have not attained full independence in accordance with General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters.

3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Director-General.

Article 27

Entry into force

This Convention shall enter into force three months after the date of the deposit of the twentieth instrument referred to in Article 26, but solely with respect to the twenty States or territories that have so deposited their instruments. It shall enter into force for each other State or territory three months after the date on which that State or territory has deposited its instrument.

Article 28

Declaration as to inland waters

When ratifying, accepting, approving or acceding to this Convention or at any time thereafter, any State or territory may declare that the Rules shall apply to inland waters not of a maritime character.

Article 29

Limitations to geographical scope

At the time of ratifying, accepting, approving or acceding to this Convention, a State or territory may make a declaration to the depositary that this Convention shall not be applicable to specific parts of its territory, internal waters, archipelagic waters or territorial sea, and shall identify therein the reasons for such declaration. Such State shall, to the extent practicable and as quickly as possible, promote conditions under which this Convention will apply to the areas specified in its declaration, and to that end shall also withdraw its declaration in whole or in part as soon as that has been achieved.

Article 30

Reservations

With the exception of Article 29, no reservations may be made to this Convention.

Article 31

Amendments

1. A State Party may, by written communication addressed to the Director-General, propose amendments to this Convention. The Director-General shall circulate such communication to all States Parties. If, within six months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Director-General shall present such proposal to the next Meeting of States Parties for discussion and possible adoption.

2. Amendments shall be adopted by a two-thirds majority of States Parties present and voting.

3. Once adopted, amendments to this Convention shall be subject to ratification, acceptance, approval or accession by the States Parties.

4. Amendments shall enter into force, but solely with respect to the States Parties that have ratified, accepted, approved or acceded to them, three months after the deposit of the instruments referred to in paragraph 3 of this Article by two thirds of the States Parties. Thereafter, for each State or territory that ratifies, accepts, approves or accedes to it, the amendment shall enter into force three months after the date of deposit by that Party of its instrument of ratification, acceptance, approval or accession.

5. A State or territory which becomes a Party to this Convention after the entry into force of amendments in conformity with paragraph 4 of this Article shall, failing an expression of different intention by that State or territory, be considered:

    (a) as a Party to this Convention as so amended; and

    (b) as a Party to the unamended Convention in relation to any State Party not bound by the amendment.

Article 32

enunciation

1. A State Party may, by written notification addressed to the Director-General, denounce this Convention.

2. The denunciation shall take effect twelve months after the date of receipt of the notification, unless the notification specifies a later date.

3. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Convention to which it would be subject under international law independently of this Convention.

Article 33

The Rules

The Rules annexed to this Convention form an integral part of it and, unless expressly provided otherwise, a reference to this Convention includes a reference to the Rules.

Article 34

Registration with the United Nations

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General.

Article 35

Authoritative texts

This Convention has been drawn up in Arabic, Chinese, English, French, Russian and Spanish, the six texts being equally authoritative.

Annex: Rules concerning activities directed at underwater cultural heritage

I. General principles

Rule 1. The protection of underwater cultural heritage through in situ preservation shall be considered as the first option. Accordingly, activities directed at underwater cultural heritage shall be authorized in a manner consistent with the protection of that heritage, and subject to that requirement may be authorized for the purpose of making a significant contribution to protection or knowledge or enhancement of underwater cultural heritage.

Rule 2. The commercial exploitation of underwater cultural heritage for trade or speculation or its irretrievable dispersal is fundamentally incompatible with the protection and proper management of underwater cultural heritage. Underwater cultural heritage shall not be traded, sold, bought or bartered as commercial goods.

This Rule cannot be interpreted as preventing:

(a) the provision of professional archaeological services or necessary services incidental thereto whose nature and purpose are in full conformity with this Convention and are subject to the authorization of the competent authorities;

(b) the deposition of underwater cultural heritage, recovered in the course of a research project in conformity with this Convention, provided such deposition does not prejudice the scientific or cultural interest or integrity of the recovered material or result in its irretrievable dispersal; is in accordance with the provisions of Rules 33 and 34; and is subject to the authorization of the competent authorities.

Rule 3. Activities directed at underwater cultural heritage shall not adversely affect the underwater cultural heritage more than is necessary for the objectives of the project.

Rule 4. Activities directed at underwater cultural heritage must use non-destructive techniques and survey methods in preference to recovery of objects. If excavation or recovery is necessary for the purpose of scientific studies or for the ultimate protection of the underwater cultural heritage, the methods and techniques used must be as non-destructive as possible and contribute to the preservation of the remains.

Rule 5. Activities directed at underwater cultural heritage shall avoid the unnecessary disturbance of human remains or venerated sites.

Rule 6. Activities directed at underwater cultural heritage shall be strictly regulated to ensure proper recording of cultural, historical and archaeological information.

Rule 7. Public access to in situ underwater cultural heritage shall be promoted, except where such access is incompatible with protection and management.

Rule 8. International cooperation in the conduct of activities directed at underwater cultural heritage shall be encouraged in order to further the effective exchange or use of archaeologists and other relevant professionals.

II. Project design

Rule 9. Prior to any activity directed at underwater cultural heritage, a project design for the activity shall be developed and submitted to the competent authorities for authorization and appropriate peer review.

Rule 10. The project design shall include:

(a) an evaluation of previous or preliminary studies;

(b) the project statement and objectives;

(c) the methodology to be used and the techniques to be employed;

(d) the anticipated funding;

(e) an expected timetable for completion of the project;

(f) the composition of the team and the qualifications, responsibilities and experience of each team member;

(g) plans for post-fieldwork analysis and other activities;

(h) a conservation programme for artefacts and the site in close cooperation with the competent authorities;

(i) a site management and maintenance policy for the whole duration of the project;

(j) a documentation programme;

(k) a safety policy;

(l) an environmental policy;

(m) arrangements for collaboration with museums and other institutions, in particular scientific institutions;

(n) report preparation;

(o) deposition of archives, including underwater cultural heritage removed; and

(p) a programme for publication.

Rule 11. Activities directed at underwater cultural heritage shall be carried out in accordance with the project design approved by the competent authorities.

Rule 12. Where unexpected discoveries are made or circumstances change, the project design shall be reviewed and amended with the approval of the competent authorities.

Rule 13. In cases of urgency or chance discoveries, activities directed at the underwater cultural heritage, including conservation measures or activities for a period of short duration, in particular site stabilization, may be authorized in the absence of a project design in order to protect the underwater cultural heritage.

III. Preliminary work

Rule 14. The preliminary work referred to in Rule 10 (a) shall include an assessment that evaluates the significance and vulnerability of the underwater cultural heritage and the surrounding natural environment to damage by the proposed project, and the potential to obtain data that would meet the project objectives.

Rule 15. The assessment shall also include background studies of available historical and archaeological evidence, the archaeological and environmental characteristics of the site, and the consequences of any potential intrusion for the long-term stability of the underwater cultural heritage affected by the activities.

IV. Project objective, methodology and techniques

Rule 16. The methodology shall comply with the project objectives, and the techniques employed shall be as non-intrusive as possible.

V. Funding

Rule 17. Except in cases of emergency to protect underwater cultural heritage, an adequate funding base shall be assured in advance of any activity, sufficient to complete all stages of the project design, including conservation, documentation and curation of recovered artefacts, and report preparation and dissemination.

Rule 18. The project design shall demonstrate an ability, such as by securing a bond, to fund the project through to completion.

Rule 19. The project design shall include a contingency plan that will ensure conservation of underwater cultural heritage and supporting documentation in the event of any interruption of anticipated funding.

VI. Project duration - timetable

Rule 20. An adequate timetable shall be developed to assure in advance of any activity directed at underwater cultural heritage the completion of all stages of the project design, including conservation, documentation and curation of recovered underwater cultural heritage, as well as report preparation and dissemination.

Rule 21. The project design shall include a contingency plan that will ensure conservation of underwater cultural heritage and supporting documentation in the event of any interruption or termination of the project.

VII. Competence and qualifications

Rule 22. Activities directed at underwater cultural heritage shall only be undertaken under the direction and control of, and in the regular presence of, a qualified underwater archaeologist with scientific competence appropriate to the project.

Rule 23. All persons on the project team shall be qualified and have demonstrated competence appropriate to their roles in the project.

VIII. Conservation and site management

Rule 24. The conservation programme shall provide for the treatment of the archaeological remains during the activities directed at underwater cultural heritage, during transit and in the long term. Conservation shall be carried out in accordance with current professional standards.

Rule 25. The site management programme shall provide for the protection and management in situ of underwater cultural heritage, in the course of and upon termination of fieldwork. The programme shall include public information, reasonable provision for site stabilization, monitoring, and protection against interference.

IX. Documentation

Rule 26. The documentation programme shall set out thorough documentation including a progress report of activities directed at underwater cultural heritage, in accordance with current professional standards of archaeological documentation.

Rule 27. Documentation shall include, at a minimum, a comprehensive record of the site, including the provenance of underwater cultural heritage moved or removed in the course of the activities directed at underwater cultural heritage, field notes, plans, drawings, sections, and photographs or recording in other media.

X. Safety

Rule 28. A safety policy shall be prepared that is adequate to ensure the safety and health of the project team and third parties and that is in conformity with any applicable statutory and professional requirements.

XI. Environment

Rule 29. An environmental policy shall be prepared that is adequate to ensure that the seabed and marine life are not unduly disturbed.

XII. Reporting

Rule 30. Interim and final reports shall be made available according to the timetable set out in the project design, and deposited in relevant public records.

Rule 31. Reports shall include:

(a) an account of the objectives;

(b) an account of the methods and techniques employed;

(c) an account of the results achieved;

(d) basic graphic and photographic documentation on all phases of the activity;

(e) recommendations concerning conservation and curation of the site and of any underwater cultural heritage removed; and

(f) recommendations for future activities.

XIII. Curation of project archives

Rule 32. Arrangements for curation of the project archives shall be agreed to before any activity commences, and shall be set out in the project design.

Rule 33. The project archives, including any underwater cultural heritage removed and a copy of all supporting documentation shall, as far as possible, be kept together and intact as a collection in a manner that is available for professional and public access as well as for the curation of the archives. This should be done as rapidly as possible and in any case not later than ten years from the completion of the project, in so far as may be compatible with conservation of the underwater cultural heritage.

Rule 34. The project archives shall be managed according to international professional standards, and subject to the authorization of the competent authorities.

XIV. Dissemination

Rule 35. Projects shall provide for public education and popular presentation of the project results where appropriate.

Rule 36. A final synthesis of a project shall be:

(a) made public as soon as possible, having regard to the complexity of the project and the confidential or sensitive nature of the information; and

(b) deposited in relevant public records.

Done in Paris this 6th day of November 2001 in two authentic copies bearing the signature of the President of the thirty-first session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization and certified true copies of which shall be delivered to all the States and territories referred to in Article 26 as well as to the United Nations.

SCHEDULE 8

Statements which may be subject of certificate under *section 206* - presumptions

Section 206

1. In this Schedule—

"draft general notice" has the meaning assigned to it by *section 8* ;

"general notice" has the meaning assigned to it by *section 8* ;

"Register action" has the meaning assigned to it by *section 8* ;

"relevant map" has the meaning assigned to it by *section 8* ;

" *section 64* burial ground" has the meaning assigned to it by *section 64 (1)*;

" *section 65* burial ground" has the meaning assigned to it by *section 65 (1)*;

" *section 22* consultation notice" shall be construed in accordance with *section 22 (1)*;

" *section 23* consultation notice" shall be construed in accordance with *section 23 (1)*;

" *section 23* general list consultation notice" shall be construed in accordance with *section 23 (1)(a)(ii)*;

" *section 53* monument" has the meaning assigned to it by *section 53 (1)*;

" *section 54* monument" has the meaning assigned to it by *section 54 (1)*;

" *section 55* monument" has the meaning assigned to it by *section 55 (1)*;

" *section 56* monument" has the meaning assigned to it by *section 56 (1)*;

" *section 57* monument" has the meaning assigned to it by *section 57 (1)*;

" *section 58* monument" has the meaning assigned to it by *section 58 (1)*;

" *section 59* monument" has the meaning assigned to it by *section 59 (1)*;

" *section 60* monument" has the meaning assigned to it by *section 60 (1)*;

" *section 53* to *section 60* monument" has the meaning assigned to it by *section 61 (1)*;

" *section 23* revised general list consultation notice" shall be construed in accordance with *section 23 (1)(a)(iii)*;

"specific notice" has the meaning assigned to it by *section 8* .

2. A statement to the effect that a thing referred to in the statement—

(a) is or is not a registered monument,

(b) is or is not a prescribed monument (not being a registered monument), or

(c) is or is not a national monument.

3. A statement to the effect that a registered monument referred to in the statement was or was not, on a date, or during a period, specified in the statement, a national monument.

4. A statement to the effect that a thing referred to in the statement has never been a registered monument.

5. A statement to the effect that a site referred to in the statement where works were carried out is at, on, in, or under, a site shown on a relevant map, referred to in the statement, is a registered monument.

6. A statement to the effect that a map referred to in the statement is a relevant map.

7. A statement to the effect that a site referred to in the statement where works were carried out is at, on, in, or under, a site shown on a map referred to in *section 42 (3)* as a potential Register action monument (within the meaning of *section 42 (4)*).

8. A statement to the effect that a map referred to in the statement is a map referred to in *section 42 (3)* in respect of the potential Register action monument (within the meaning of *section 42 (4)*) referred to in the statement.

9. A statement to the effect that a document referred to in the statement is, in respect of the Register action referred to in the statement—

(a) a copy of the particulars (including any statements) entered in the Register or removed therefrom in consequence of that Register action,

(b) a copy of the specific notice (if any) given in respect of that Register action,

(c) a copy of the national newspaper notice (if any) referred to in *section 19 (1)(b)* or *(c)* published in respect of that Register action,

(d) a copy of the general notice (if any) made available for inspection by members of the public in consequence of that Register action, or

(e) a copy of the specific notice (if any) published in *Iris Oifigiúil* pursuant to *section 19 (3)* in respect of that Register action.

10. A statement to the effect that a document specified in the statement is, in respect of the potential Register action to which *section 22* applies referred to in the statement—

(a) a copy of the *section 22* consultation notice given in respect of that potential Register action,

(b) a copy of the map (if any) that accompanied the *section 22* consultation notice given in respect of that potential Register action, or

(c) a copy of the notice under *section 22 (1)(c)* given in respect of that potential Register action.

11. A statement to the effect that a document specified in the statement is, in respect of the potential Register action to which *section 23* applies referred to in the statement—

(a) a copy of the *section 23* consultation notice (if any) given in respect of that potential Register action,

(b) a copy of the *section 23* general list consultation notice (if any) or *section 23* revised general list consultation notice (if any) published in a national newspaper in respect of that potential Register action,

(c) a copy of the map (if any) that accompanied the *section 23* consultation notice (if any) given in respect of that potential Register action,

(d) a copy of the draft general notice (if any) made available for inspection by members of the public in consequence of that potential Register action, or

(e) a copy of the notice under *section 23 (1)(c)* given in respect of that potential Register action.

12. A statement to the effect that a thing referred to in the statement is a prescribed monument but not a registered monument.

13. A statement specifying the site or extent, or both, of a prescribed monument.

14. A statement to the effect that a thing referred to in the statement is or is not a *section 53* monument, *section 54* monument, *section 55* monument, *section 56* monument, *section 57* monument, *section 58* monument, *section 59* monument or *section 60* monument.

15. A statement to the effect that a thing referred to in the statement is or is not a *section 64* burial ground or *section 65* burial ground.

16. A statement to the effect that a *section 64* burial ground specified in the statement was or was not, immediately before the commencement of *Chapter 13* of *Part 2* —

    (a) a *section 53* to *60* monument, or

    (b) vested in fee simple free from encumbrances—

        (i) in the Minister, or

        (ii) in the local authority in whose functional area the burial ground is situated.

17. A statement to the effect that a *section 65* burial ground specified in the statement—

    (a) was or was not, immediately before the commencement of *Chapter 11* of *Part 2* , a *section 53* to *60* monument, or

    (b) is or is not a burial ground in respect of which the fee simple in it has not, at any time before the commencement of *Chapter 13* of *Part 2* , been vested in a person at a direction given pursuant to section 26(2) of the Act of 1869.

18. A statement to the effect that a burial ground specified in the statement is a burial ground referred to, or entered, in Appendix No. 9 to the Report of the Church Temporalities Commission.

19. A statement to the effect that a registered monument specified in the statement is or is not in the ownership or guardianship of the Minister or a local authority.

20. A statement to the effect that an order specified in the statement is or is not an order under section 9(2) of the Act of 1930 that was in force immediately before the commencement of *section 69* .

21. A statement to the effect that an order specified in the statement is or is not an order under section 15 of the Act of 1925 that was in force immediately before the commencement of *section 70* .

22. A statement to the effect that a deed specified in the statement is or is not—

    (a) a deed made under section 5 of the Act of 1930, or

(b) a deed referred to in section 6 of the Act of 1930,

that was in force immediately before the commencement of *section 71* .

23. A statement to the effect that a wreck specified in the statement is or is not a relevant wreck within the meaning of *section 132* .

[1] OJ No. L26, 28.1.2012, p. 1

[2] OJ No. L124, 25.4.2014, p. 1

[3]OJ No. L206, 22.7.1992, p. 7

[4]OJ No. L305, 8.11.1997, p. 42

[5]OJ No. L284, 31.10.2003, p. 1

[6]OJ No. L363, 20.12.2006, p. 368

[7]OJ No. L193, 10.6.2013, p. 193

[8]OJ No. L159, 28.5.2014, p. 1

[9]OJ No. L39, 10.2.2009, p. 1

[10]OJ No. L151, 7.6.2019, p. 1

[11]OJ No. L119, 4.5.2016, p. 1