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*Number 7 of 1998*

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**MINISTER FOR ARTS, HERITAGE, GAELTACHT AND THE  
ISLANDS (POWERS AND FUNCTIONS) ACT, 1998**

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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
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SCHEDULE

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[No. 7.]

*Minister for Arts, Heritage,  
Gaeltacht and the Islands (Powers  
and Functions) Act, 1998.*

[1998.]

Acts Referred to

An Act for making and maintaining a navigable Canal from Lough Erne in the County of Fermanagh, to the River Blackwater, near the Village of Charlemont in the County of Armagh	6 Geo. 4. c. cxcii
Aran Islands Transport Act, 1946	1946, No. 5
Canals Act, 1986	1986, No. 3
Heritage Act, 1995	1995, No. 4
Roads Act, 1993	1993, No. 14
Shannon Navigation Act, 1990	1990, No. 20
State Authorities (Development and Management) Act, 1993	1993, No. 1



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**MINISTER FOR ARTS, HERITAGE, GAELTACHT AND THE ISLANDS (POWERS AND FUNCTIONS) ACT, 1998**  
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AN ACT TO CONFER ON THE MINISTER FOR ARTS, HERITAGE, GAELTACHT AND THE ISLANDS CERTAIN ANCILLARY FUNCTIONS IN RELATION TO PROPERTY, TO CLARIFY AND EXTEND THE MINISTER'S FUNCTIONS IN RELATION TO CERTAIN INLAND WATERWAYS, FERRY SERVICES AND OTHER MATTERS, TO AMEND THE HERITAGE ACT, 1995, AND TO PROVIDE FOR RELATED MATTERS. [8th April, 1998]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act, unless the context otherwise requires—

Interpretation.

“function” includes a power and a duty, and a reference to the performance of a function includes a reference to the exercise of a power and the carrying out of a duty;

“inland waterway” means any river or lake (including canalised sections of a river or lake), navigation or canal, specified in the *Schedule* to this Act, and includes—

- (a) a part of such river, lake, navigation or canal,
- (b) any land comprised in the description of the river, lake, navigation or canal, whether it is dry land or land permanently or intermittently covered by water, and
- (c) its associated navigational features;

“land” includes land covered by water;

“Minister” means the Minister for Arts, Heritage, Gaeltacht and the Islands.

2.—(1) The Minister may, by order, amend the *Schedule* to this Act by adding an inland waterway to, deleting an inland waterway from, or amending an entry in respect of an inland waterway in, the *Schedule*.

Power to amend  
*Schedule* by order.

(2) An order made under this section shall be laid before each House of the Oireachtas as soon as practicable after it is made and,

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S.2 if a resolution annulling the order is passed by either House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done under the order.

Functions of Minister in relation to inland waterways.

**3.**—(1) Without prejudice to the generality of *section 5* of this Act, it shall be and be deemed always to have been a function of the Minister to manage and develop inland waterways.

(2) Subject to *subsection (3)* of this section, for the purposes of the performance of a function of the Minister relating to any inland waterway (including the Shannon navigation and the canals), the Minister may exercise any of the powers he or she has—

(a) in relation to the Shannon navigation under the Shannon Navigation Act, 1990, and

(b) in relation to the canals under the Canals Act, 1986,

but without prejudice to the rights of any other person under either of those Acts.

(3) Notwithstanding *section 6(c)* of the Canals Act, 1986, and *section 2(e)* of the Shannon Navigation Act, 1990, the powers of the Minister under *subsection (2)* of this section shall extend to the doing to or in relation to public roads within the meaning of the Roads Act, 1993, any of the things permitted by virtue of the said *subsection (2)*.

(4) The Minister may for stated reasons temporarily close—

(a) an inland waterway, or

(b) any part of an inland waterway, or

(c) any land contiguous to an inland waterway including any towpath or embankment.

(5) In this section—

“the canals” has the same meaning as in the Canals Act, 1986;

“develop” includes—

(a) to carry out any works on, in, under or over land (including any road) forming part of an inland waterway and the making of any material change in the use of any structure or other land (including any road) which forms such a part or is contiguous to such land, and

(b) to do anything in relation to an inland waterway that the Minister can do by virtue of *subsection (2)* of this section;

“the Shannon navigation” has the same meaning as in the Shannon Navigation Act, 1990.

Functions of Minister in relation to ferry services.

**4.**—Without prejudice to the Aran Islands Transport Act, 1946, or the generality of this or any other enactment conferring functions on the Minister, the Minister may, at his or her discretion and subject to such terms and conditions as the Minister may, with the consent of the Minister for Finance, determine, finance the building, acquisition,

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overhaul or repair of vessels suitable for the operation of ferry services to inhabited offshore islands in the State, and pay subsidies for the operation of such ferry services. S.4

5.—(1) It shall be and be deemed always to have been a function of the Minister, for the purposes of or as necessary or expedient for the performance of any function of the Minister under this or any other enactment or otherwise conferred on him or her—  
Functions of Minister in relation to property ancillary to other functions, etc.

(a) to acquire, create, hold, maintain and dispose of—

- (i) land (including an inland waterway) and interests in or rights over land, or
- (ii) other property (including intellectual property) of any kind and interests in or rights over such other property,

for use by the Minister in the performance of his or her functions under this or any other enactment or otherwise so conferred,

(b) either alone or jointly with any other person or body (including a State authority within the meaning of the State Authorities (Development and Management) Act, 1993), to manage, develop, maintain, repair, improve, alter, enlarge, reduce in size, demolish, remove or otherwise deal with—

- (i) buildings or structures or other works or property on, in, under or over any such land referred to in *paragraph (a)(i)* of this subsection, or
- (ii) other property referred to in *paragraph (a)(ii)* of this subsection or associated with the Minister's functions,

(c) to procure the performance or exercise by another person on behalf of the Minister, on and subject to such terms and conditions as the Minister may determine, of a function mentioned in *paragraph (b)* of this subsection, and

(d) to provide financial assistance to any person or body, including a public authority, in respect of any matter related to the performance of the Minister's functions, as the Minister considers desirable.

(2) Nothing in *subsection (1)* of this section shall be construed as conferring on a person (other than the Minister) or body a function that the person or body does not otherwise have.

(3) A function referred to in this section is not in substitution for any other function the Minister had immediately before the passing of this Act.

(4) In this section, "public authority" has the same meaning as in the Heritage Act, 1995.

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and Functions) Act, 1998.* [1998.]

Amendment of  
Heritage Act, 1995.

**6.—**(1) The Heritage Act, 1995, is hereby amended in section 10 by the insertion after subsection (4) of the following subsection:

“(5) This section shall apply to a building owned by a public authority and which has been designated as a heritage building by order made under subsection (4).”.

(2) *Subsection (1)* of this section shall be deemed to have applied and have effect on and from the 10th day of April, 1995.

Expenses.

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

Short title.

**8.—**This Act may be cited as the Minister for Arts, Heritage, Gaeltacht and the Islands (Powers and Functions) Act, 1998.

*Section 1.*

#### SCHEDULE

1. The Grand Canal (including the Barrow Navigation).
2. The Royal Canal.
3. The Shannon navigation as defined in section 1(1) of the Shannon Navigation Act, 1990.
4. The Ballinamore and Ballyconnell navigation as defined in section 5(12) of the Shannon Navigation Act, 1990.
5. The Erne and Lough Oughter navigation as defined in section 5(12) of the Shannon Navigation Act, 1990.
6. So much of the canal called “The Ulster Canal” referred to in section 2 of the Act (6 Geo. IV. c. cxci) passed in the year 1825 and entitled “an Act for making and maintaining a navigable Canal from Lough Erne in the County of Fermanagh, to the River Blackwater, near the Village of Charlemont in the County of Armagh”, as is within the State and in existence at any time before the commencement of this Act.