



Number 11 of 2011

FORESHORE (AMENDMENT) ACT 2011

ARRANGEMENT OF SECTIONS

Section

1. Transfer and vesting of certain foreshore functions.
 2. Amendment consequential to *section 1*.
 3. Preservation of certain continuing contracts and adaptation of certain references to Minister for Agriculture, Fisheries and Food in certain documents.
 4. Saving and amendment of certain statutory instruments made by Minister for Agriculture, Fisheries and Food.
 5. Transfer of certain property and liabilities of Minister for Agriculture, Fisheries and Food.
 6. Effect of transfer of functions on certain acts performed and documents.
 7. Pending legal proceedings.
 8. Completion of certain matters commenced by Minister for Agriculture, Fisheries and Food.
 9. Exercise of certain functions.
 10. Short title, collective citation and construction.
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[No. 11.] *Foreshore (Amendment) Act 2011.* [2011.]

ACTS REFERRED TO

Foreshore Act 1933	1933, No. 12
Foreshore Acts 1933 to 2009	
Foreshore and Dumping at Sea (Amendment) Act 2009	2009, No. 39



Number 11 of 2011

FORESHORE (AMENDMENT) ACT 2011

AN ACT TO PROVIDE FOR THE TRANSFER OF CERTAIN FUNCTIONS RELATING TO THE FORESHORE FROM THE MINISTER FOR AGRICULTURE, FISHERIES AND FOOD TO THE MINISTER FOR THE ENVIRONMENT, COMMUNITY AND LOCAL GOVERNMENT AND FOR THAT AND OTHER PURPOSES TO AMEND AND EXTEND THE FORESHORE ACTS 1933 TO 2009 AND TO PROVIDE FOR CONNECTED MATTERS.

[7th July, 2011]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) Except as provided for by *subsection (2)*, the functions, immediately before the passing of this Act, of the Minister for Agriculture, Fisheries and Food under the Foreshore Acts 1933 to 2009 are, on such passing, transferred to the Minister for the Environment, Community and Local Government and this subsection has effect for the purpose of vesting in the Minister for the Environment, Community and Local Government the functions so transferred.

Transfer and vesting of certain foreshore functions.

(2) The following functions of the Minister for Agriculture, Fisheries and Food under the Foreshore Acts 1933 to 2009 remain with and continue to be functions of that Minister:

- (a) any function in relation to a fishery harbour centre,
- (b) any function in respect of—
 - (i) an activity which is wholly or primarily for the use, development or support of aquaculture, or
 - (ii) an activity which is wholly or primarily for the use, development or support of sea-fishing including the processing and sale of sea-fish and manufacture of products derived from sea-fish.

(3) The administration and business in connection with the performance of any functions transferred to the Minister for the Environment, Community and Local Government from the Minister for Agriculture, Fisheries and Food by *subsection (1)* are, on the passing of this Act, transferred to the Department of the Environment, Community and Local Government.

Amendment consequential to section 1.

2.—The Foreshore Act 1933 is amended by substituting the following for section 1B (inserted by section 6 of the Foreshore and Dumping at Sea (Amendment) Act 2009):

“1B.—In the *Foreshore Acts 1933 to 2011* ‘appropriate Minister’ means—

- (a) in relation to a fishery harbour centre, the Minister for Agriculture, Fisheries and Food,
- (b) in relation to a function in respect of—
 - (i) an activity which is wholly or primarily for the use, development or support of aquaculture, or
 - (ii) an activity which is wholly or primarily for the use, development or support of sea-fishing including the processing and sale of sea-fish and manufacture of products derived from sea-fish,the Minister for Agriculture, Fisheries and Food,
- (c) in relation to any other function exercisable under the *Foreshore Acts 1933 to 2011*, the Minister for the Environment, Community and Local Government.”.

Preservation of certain continuing contracts and adaptation of certain references to Minister for Agriculture, Fisheries and Food in certain documents.

3.—(1) Every bond, guarantee or other security of a continuing nature made or given—

- (a) by or on behalf of the Minister for Agriculture, Fisheries and Food to any person in the performance of a function transferred by this Act from that Minister to the Minister for the Environment, Community and Local Government, or
- (b) by any person to the Minister for Agriculture, Fisheries and Food and accepted by or on behalf of that Minister in the performance of a function so transferred,

and in force immediately before the passing of this Act, and every contract or agreement in writing made between the Minister for Agriculture, Fisheries and Food in the performance of a function so transferred and another person and in force but not fully executed and completed immediately before such passing, shall continue in force on and after such passing and shall be construed and have effect as if, to the extent that the functions are so transferred, the name of the Minister for the Environment, Community and Local Government were substituted therein for that of the Minister for Agriculture, Fisheries and Food and such security, contract or agreement shall be enforceable to that extent by or against the Minister for the Environment, Community and Local Government.

(2) References to the Minister for Agriculture, Fisheries and Food contained immediately before the passing of this Act in the memorandum and articles of association of any company and relating to a function transferred by this Act shall, on and after that date, be construed to the extent of such transfer as references to the Minister for the Environment, Community and Local Government.

4.—(1) Subject to *section 9*, where—

- (a) any regulations or order was made or deemed to have been made under the *Foreshore Acts 1933 to 2009*, before the passing of this Act, that subsists on such passing, and
- (b) that order or regulations relate in whole or in part to functions exercisable by the Minister for the Environment, Community and Local Government by virtue of this Act,

Saving and amendment of certain statutory instruments made by Minister for Agriculture, Fisheries and Food.

then, to the extent that that order or regulations relate to functions so exercisable, such regulations or order shall have effect, on and after such passing, as if made by that Minister and may be amended or revoked by that Minister.

(2) Nothing in this Act shall affect the validity of any act which, before the passing of this Act, was done by or on behalf of the Minister for Agriculture, Fisheries and Food and every such act done by or on behalf of that Minister in the performance of a function transferred by this Act, shall, if and in so far as it was commenced immediately before such passing, have effect, on and after such passing, as if it had been done by or on behalf of the Minister for the Environment, Community and Local Government.

5.—(1) All property, rights and liabilities held, enjoyed or incurred immediately before the passing of this Act by the Minister for Agriculture, Fisheries and Food in connection with the functions transferred by this Act are transferred to the Minister for the Environment, Community and Local Government and, accordingly, without any further conveyance, transfer or assignment—

Transfer of certain property and liabilities of Minister for Agriculture, Fisheries and Food.

- (a) the said property, real and personal, shall, on such passing, vest in the Minister for the Environment, Community and Local Government,
- (b) the said rights shall, as on and from such passing, be enjoyed by the Minister for the Environment, Community and Local Government,
- (c) the said liabilities shall, as on and from such passing, be the liabilities of the Minister for the Environment, Community and Local Government.

(2) All moneys, stocks, shares and securities transferred to the Minister for the Environment, Community and Local Government by this section which, on the passing of this Act, are standing in the name of the Minister for Agriculture, Fisheries and Food shall, upon the request of the Minister for the Environment, Community and Local Government, be transferred into the name of the Minister for the Environment, Community and Local Government.

6.—(1) Without prejudice to *section 9*, every—

- (a) document made, granted or served, as the case may be,
- (b) approval under *section 10* of the Act of 1933, and
- (c) consent under *section 13* of the Act of 1933,

Effect of transfer of functions on certain acts performed and documents.

shall, in so far as it was operative immediately before the passing of this Act and to the extent that it relates to a matter transferred by this Act, have effect on and after such passing as if it had been made, granted, served, approved of or consented to, as the case may be, by the Minister for the Environment, Community and Local Government.

(2) In this section—

“Act of 1933” means the Foreshore Act 1933;

“document” includes—

- (a) any lease made under section 2 of the Act of 1933,
- (b) any licence granted under section 3 of the Act of 1933,
- (c) any prohibitory order made under section 6 of the Act of 1933, and
- (d) any prohibitory notice served under section 7 of the Act of 1933.

Pending legal proceedings.

7.—Where, immediately before the passing of this Act, any legal proceedings are pending in any court or tribunal and the Minister for Agriculture, Fisheries and Food is a party to the proceedings then—

- (a) where the proceedings relate solely to functions transferred by virtue of this Act to the Minister for the Environment, Community and Local Government, the name of that Minister shall be substituted in the proceedings for that of the Minister for Agriculture, Fisheries and Food,
- (b) where the proceedings relate partly to functions transferred by virtue of this Act to the Minister for the Environment, Community and Local Government, the name of that Minister shall be added to the proceedings,

and the proceedings shall not abate by reason of such substitution.

Completion of certain matters commenced by Minister for Agriculture, Fisheries and Food.

8.—Without prejudice to *section 9*, anything commenced before the passing of this Act by or under the authority of the Minister for Agriculture, Fisheries and Food may, so far as it relates to functions transferred by *section 1*, be carried on or completed on and after such passing by the Minister for the Environment, Community and Local Government.

Exercise of certain functions.

9.—Where at any time on or after 15 January 2010 but before the passing of this Act the Minister for the Environment, Community and Local Government either exercised a function under the Foreshore Acts 1933 to 2009, or purported to exercise such a function, then—

- (a) that function (whether exercised in whole or in part), including the exercise by that Minister or by any other person of all necessary prerequisite consultations and other requirements for the purposes of the exercise of that function, shall be deemed to have been validly exercised at the relevant time as if that Minister had been the

appropriate Minister for the purposes of those Acts in relation to the exercise of the function concerned, and

- (b) to the extent that anything commenced to which *paragraph (a)* relates has not been completed, it may be carried on or completed on and after the passing of this Act by that Minister.

10.—(1) This Act may be cited as the Foreshore (Amendment) Act 2011.

Short title,
collective citation
and construction.

(2) The Foreshore Acts 1933 to 2009 and this Act may be cited together as the Foreshore Acts 1933 to 2011 and shall be construed together as one.