



Number 20 of 2011

**ENVIRONMENT (MISCELLANEOUS PROVISIONS) ACT
2011**

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title, collective citations, construction and commencement.
2. Definitions.

PART 2

COSTS OF CERTAIN PROCEEDINGS TO BE BORNE BY EACH PARTY IN
CERTAIN CIRCUMSTANCES

3. Costs of proceedings to be borne by each party in certain circumstances.
4. Civil proceedings relating to certain licences, etc.
5. Proceedings relating to Information Regulations.
6. Additional proceedings to which *section 3* applies.
7. Application to court for determination that *section 3* applies to proceedings.
8. Judicial notice to be taken of Convention.

PART 3

AMENDMENT OF ACT OF 1987

9. Amendment of section 12 of Act of 1987.
10. Fixed payment notice.
11. Amendment of section 14 of Act of 1987.

PART 4

AMENDMENT OF ACT OF 1996

12. Amendment of section 72 of Act of 1996.

[No. 20.] *Environment (Miscellaneous Provisions) [2011.]
Act 2011.*

13. Amendment of section 73 of Act of 1996.
14. Amendment of section 74 of Act of 1996.

PART 5

AMENDMENT OF PLANNING AND DEVELOPMENT ACT 2000

15. Definitions.
16. Amendment of section 2 of Act of 2000.
17. Amendment of section 4 of Act of 2000.
18. Amendment of section 13 of Act of 2000.
19. Amendment of section 30 of Act of 2000.
20. Amendment of section 50A of Act of 2000.
21. Amendment of section 50B of Act of 2000.
22. Amendment of section 57 of Act of 2000.
23. Amendment of section 82 of Act of 2000.
24. Amendment of section 87 of Act of 2000.
25. Amendment of section 130 of Act of 2000.
26. Amendment of section 135 of Act of 2000.
27. Amendment of section 153 of Act of 2000.
28. Amendment of section 157 of Act of 2000.
29. Amendment of section 160 of Act of 2000.
30. Amendment of section 170 of Act of 2000.
31. Amendment of section 177R of Act of 2000.
32. European site that does not host priority habitat or species
and draft Land use plan.
33. European site that hosts priority habitat or species and draft
Land use plan.
34. Amendment of section 177Z of Act of 2000.
35. European site that does not host priority habitat or species.
36. European site that hosts priority habitat or species.
37. Amendment of section 181A of Act of 2000.
38. Amendment of section 181B of Act of 2000.
39. Amendment of section 182A of Act of 2000.
40. Amendment of section 182C of Act of 2000.

[2011.] *Environment (Miscellaneous Provisions) Act 2011.* [No. 20.]

41. Amendment of Seventh Schedule to Act of 2000.
42. Repeal.

PART 6
MISCELLANEOUS

43. Amendment of Freedom of Information Act 1997.
 44. Amendment of Local Government Act 1998.
 45. Amendment of section 70 of Environmental Protection Agency Act 1992.
 46. Repeal.
 47. Savings and transitionals.
 48. Placenames.
 49. Amendment of section 32 of Official Languages Act 2003.
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[No. 20.] *Environment (Miscellaneous Provisions) [2011.]
Act 2011.*

ACTS REFERRED TO

Air Pollution Act 1987	1987, No. 6
Dumping at Sea Act 1996	1996, No. 14
Environmental Protection Agency Act 1992	1992, No. 7
European Communities Act 1972	1972, No. 27
Foreshore Act 1933	1933, No. 12
Forestry Act 1946	1946, No. 13
Freedom of Information Act 1997	1997, No. 13
Gas Act 1976	1976, No. 30
Local Government Act 1998	1998, No. 16
Local Government Act 2001	2001, No. 37
Local Government (Business Improvement Districts) Act 2006	2006, No. 42
Local Government (Water Pollution) Act 1977	1977, No. 1
Minerals Development Act 1940	1940, No. 31
Mines and Quarries Act 1965	1965, No. 7
Nursing Homes Support Scheme Act 2009	2009, No. 15
Official Languages Act 2003	2003, No. 32
Petroleum and Other Minerals Development Act 1960	1960, No. 7
Planning and Development Act 2000	2000, No. 30
Planning and Development (Amendment) Act 2010	2010, No. 30
Planning and Development (Strategic Infrastructure) Act 2006	2006, No. 27
Planning and Development Acts 2000 to 2010	
Radiological Protection Act 1991	1991, No. 9
Roads Act 1993	1993, No. 14
Transport (Railway Infrastructure) Act 2001	2001, No. 55
Waste Management Act 1996	1996, No. 10
Waste Management Acts 1996 to 2003	
Water Services Act 2007	2007, No. 30
Wildlife Act 1976	1976, No. 39



Number 20 of 2011

**ENVIRONMENT (MISCELLANEOUS PROVISIONS) ACT
2011**

AN ACT TO AMEND AND EXTEND THE AIR POLLUTION ACT 1987; THE ENVIRONMENTAL PROTECTION AGENCY ACT 1992; THE WASTE MANAGEMENT ACT 1996; AND THE FREEDOM OF INFORMATION ACT 1997; TO MAKE PROVISION FOR COSTS OF CERTAIN PROCEEDINGS; TO GIVE EFFECT TO CERTAIN ARTICLES OF THE CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS DONE AT AARHUS, DENMARK ON 25 JUNE 1998 AND FOR JUDICIAL NOTICE TO BE TAKEN OF THE CONVENTION; TO AMEND THE PLANNING AND DEVELOPMENT ACT 2000; THE LOCAL GOVERNMENT ACT 1998; THE LOCAL GOVERNMENT ACT 2001 AND THE OFFICIAL LANGUAGES ACT 2003; AND TO PROVIDE FOR RELATED MATTERS.

[2nd August, 2011]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Environment (Miscellaneous Provisions) Act 2011.

Short title,
collective citations,
construction and
commencement.

(2) The Air Pollution Act 1987 and *Part 3* may be cited together as the Air Pollution Acts 1987 and 2011 and shall be read together as one.

(3) The Waste Management Acts 1996 to 2003 and *Part 4* may be cited together as the Waste Management Acts 1996 to 2011 and shall be read together as one.

(4) The Planning and Development Acts 2000 to 2010 and *Part 5* may be cited together as the Planning and Development Acts 2000 to 2011 and shall be read together as one.

(5) This Act shall come into operation on such day or days as the Minister for the Environment, Community and Local Government may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Definitions.

2.—In this Act—

“Act of 1987” means the Air Pollution Act 1987;

“Act of 1996” means the Waste Management Act 1996.

PART 2

COSTS OF CERTAIN PROCEEDINGS TO BE BORNE BY EACH PARTY IN CERTAIN CIRCUMSTANCES

Costs of proceedings to be borne by each party in certain circumstances.

3.—(1) Notwithstanding anything contained in any other enactment or in—

(a) Order 99 of the Rules of the Superior Courts (S.I. No. 15 of 1986),

(b) Order 66 of the Circuit Court Rules (S.I. No. 510 of 2001), or

(c) Order 51 of the District Court Rules (S.I. No. 93 of 1997),

and subject to *subsections (2), (3) and (4)*, in proceedings to which this section applies, each party (including any notice party) shall bear its own costs.

(2) The costs of the proceedings, or a portion of such costs, as are appropriate, may be awarded to the applicant, or as the case may be, the plaintiff, to the extent that he or she succeeds in obtaining relief and any of those costs shall be borne by the respondent, or as the case may be, defendant or any notice party, to the extent that the acts or omissions of the respondent, or as the case may be, defendant or any notice party, contributed to the applicant, or as the case may be, plaintiff obtaining relief.

(3) A court may award costs against a party in proceedings to which this section applies if the court considers it appropriate to do so—

(a) where the court considers that a claim or counter-claim by the party is frivolous or vexatious,

(b) by reason of the manner in which the party has conducted the proceedings, or

(c) where the party is in contempt of the court.

(4) *Subsection (1)* does not affect the court’s entitlement to award costs in favour of a party in a matter of exceptional public importance and where in the special circumstances of the case it is in the interests of justice to do so.

(5) In this section a reference to “court” shall be construed as, in relation to particular proceedings to which this section applies, a reference to the District Court, the Circuit Court, the High Court or the Supreme Court, as may be appropriate.

4.—(1) *Section 3* applies to civil proceedings, other than proceedings referred to in *subsection (3)*, instituted by a person—

Civil proceedings relating to certain licences, etc.

- (a) for the purpose of ensuring compliance with, or the enforcement of, a statutory requirement or condition or other requirement attached to a licence, permit, permission, lease or consent specified in *subsection (4)*, or
- (b) in respect of the contravention of, or the failure to comply with such licence, permit, permission, lease or consent,

and where the failure to ensure such compliance with, or enforcement of, such statutory requirement, condition or other requirement referred to in *paragraph (a)*, or such contravention or failure to comply referred to in *paragraph (b)*, has caused, is causing, or is likely to cause, damage to the environment.

(2) Without prejudice to the generality of *subsection (1)*, damage to the environment includes damage to all or any of the following:

- (a) air and the atmosphere;
- (b) water, including coastal and marine areas;
- (c) soil;
- (d) land;
- (e) landscapes and natural sites;
- (f) biological diversity, including any component of such diversity, and genetically modified organisms;
- (g) health and safety of persons and conditions of human life;
- (h) cultural sites and built environment;
- (i) the interaction between all or any of the matters specified in *paragraphs (a) to (h)*.

(3) *Section 3* shall not apply—

- (a) to proceedings, or any part of proceedings, referred to in *subsection (1)* for which damages, arising from damage to persons or property, are sought, or
- (b) to proceedings instituted by a statutory body or a Minister of the Government.

(4) For the purposes of *subsection (1)*, this section applies to—

- (a) a licence, or a revised licence, granted under section 83 of the Environmental Protection Agency Act 1992,
- (b) a licence granted pursuant to section 32 of the Act of 1987,

[No. 20.] *Environment (Miscellaneous Provisions) [2011.] Act 2011.*

- (c) a licence granted under section 4 or 16 of the Local Government (Water Pollution) Act 1977,
- (d) a licence granted under section 63, or a water services licence granted under section 81, of the Water Services Act 2007,
- (e) a waste collection permit granted pursuant to section 34, or a waste licence granted pursuant to section 40, of the Act of 1996,
- (f) a licence granted pursuant to section 23(6), 26 or 29 of the Wildlife Act 1976,
- (g) a permit granted pursuant to section 5 of the Dumping at Sea Act 1996,
- (h) a licence granted under section 40, or a general felling licence granted under section 49, of the Forestry Act 1946,
- (i) a licence granted pursuant to section 30 of the Radiological Protection Act 1991,
- (j) a lease made under section 2, or a licence granted under section 3 of the Foreshore Act 1933,
- (k) a prospecting licence granted under section 8, a State acquired minerals licence granted under section 22 or an ancillary rights licence granted under section 40, of the Minerals Development Act 1940,
- (l) an exploration licence granted under section 8, a petroleum prospecting licence granted under section 9, a reserved area licence granted under section 19, or a working facilities permit granted under section 26, of the Petroleum and Other Minerals Development Act 1960,
- (m) a consent pursuant to section 40 of the Gas Act 1976,
- (n) a permission or approval granted pursuant to the Planning and Development Act 2000.

(5) In this section—

“damage”, in relation to the environment, includes any adverse effect on any matter specified in *paragraphs (a) to (i) of subsection (2)*;

“statutory body” means any of the following:

- (a) a body established by or under statute;
- (b) a county council within the meaning of the Local Government Act 2001;
- (c) a city council within the meaning of the Local Government Act 2001.

(6) In this section a reference to a licence, revised licence, permit, permission, approval, lease or consent is a reference to such licence, permit, lease or consent and any conditions or other requirements

attached to it and to any renewal or revision of such licence, permit, permission, approval, lease or consent.

5.—(1) *Section 3* applies to civil proceedings, other than proceedings referred to in *subsection (2)*, instituted by a person relating to a request referred to in Regulation 6 of the Information Regulations.

Proceedings relating to Information Regulations.

(2) *Section 3* shall not apply to proceedings instituted by the Commissioner for Environmental Information or a public authority pursuant to the Information Regulations.

(3) In this section—

“Information Regulations” means the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007);

“public authority” has the meaning assigned to it by the Information Regulations.

6.—*Section 3* applies to—

- (a) proceedings in the High Court by way of judicial review or of seeking leave to apply for judicial review, of proceedings referred to in *section 4* or *5*,
- (b) an appeal (including an appeal by way of case stated) from the District Court, Circuit Court or High Court in any proceedings referred to in *section 4* or *5* or *paragraph (a)*, and
- (c) proceedings for interim or interlocutory relief in relation to any proceedings referred to in *section 4* or *5* or *paragraph (a)*.

Additional proceedings to which *section 3* applies.

7.—(1) A party to proceedings to which *section 3* applies may at any time before, or during the course of, the proceedings apply to the court for a determination that *section 3* applies to those proceedings.

Application to court for determination that *section 3* applies to proceedings.

(2) Where an application is made under *subsection (1)*, the court may make a determination that *section 3* applies to those proceedings.

(3) Without prejudice to *subsection (1)*, the parties to proceedings referred to in *subsection (1)*, may, at any time, agree that *section 3* applies to those proceedings.

(4) Before proceedings referred to in *section 3* are instituted, the persons who would be the parties to those proceedings if those proceedings were instituted, may, before the institution of those proceedings and without prejudice to *subsection (1)*, agree that *section 3* applies to those proceedings.

(5) An application under *subsection (1)* shall be by motion on notice to the parties concerned.

Judicial notice to be taken of Convention.

8.—Judicial notice shall be taken of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters done at Aarhus, Denmark on 25 June 1998.

PART 3

AMENDMENT OF ACT OF 1987

Amendment of section 12 of Act of 1987.

9.—Section 12(1) of the Act of 1987 is amended—

(a) in paragraph (a)—

(i) by substituting “a class A fine” for “a fine not exceeding £1,000”,

(ii) by substituting “a class E fine” for “a fine not exceeding £100”, and

(iii) by substituting “equals €5,000” for “equals £1,000”,

and

(b) in paragraph (b) by substituting—

(i) “€500,000” for “£10,000”, and

(ii) “€5,000” for “£1,000”.

Fixed payment notice.

10.—The Act of 1987 is amended by inserting the following section after section 12:

“12A.—(1) Where an authorised person has reasonable grounds for believing that a person has committed a relevant offence and is liable to summary prosecution in respect thereof, the authorised person may give to the person a notice (in this Act referred to as a ‘fixed payment notice’) in writing and in the prescribed form stating that—

(a) the person is alleged to have committed that offence,

(b) the person may, during the period of 21 days beginning on the date of the notice, make to the local authority concerned at the address specified in the notice a payment of the amount specified in subsection (4) in respect of that offence, accompanied by the notice,

(c) the person is not obliged to make the payment specified in the notice, and

(d) 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 local authority concerned at the address specified in the notice the payment specified in the notice, accompanied by the notice,
- (b) the local authority concerned 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 local authority shall retain the money for disposal in accordance with subsection (5), 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 so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In summary proceedings for a relevant offence it shall be a defence for the defendant to prove that he or she has made a payment in accordance with this section, pursuant to a fixed payment notice issued in respect of that offence.

(4) The amount to be specified in a fixed payment notice in respect of a relevant offence is—

- (a) €1,000, where the relevant offence consists of a contravention of article 3(1) or regulation 3A of the Fuel Regulations,
- (b) €500, where the relevant offence consists of a contravention of article 3(2), regulation 4A(1), 4B(1), 4C(1), 4C(2), article 4 or 6 of the Fuel Regulations, or
- (c) €250, where the relevant offence consists of a contravention of regulation 4A(2) or article 7 of the Fuel Regulations.

(5) Moneys received by a local authority pursuant to the giving of a fixed payment notice shall be lodged to the credit of the local fund maintained by the local authority concerned pursuant to, and in accordance with, section 97 (amended by the Local Government (Business Improvement Districts) Act 2006) of the Local Government Act 2001 and expended in accordance with that section.

(6) In this section—

‘Fuel Regulations’ means the Air Pollution Act 1987 (Marketing, Sale and Distribution of Fuels) Regulations 1998 (S.I. No. 118 of 1998) (amended by the Air Pollution Act 1987 (Marketing, Sale and Distribution of Fuels)(Amendment) Regulations 2011 (S.I. No. 270 of 2011));

‘relevant offence’ means an offence under section 11 consisting of a contravention of article 3(1), 3(2), regulation 3A, article 4, regulation 4A(1), 4A(2), 4B(1), 4C(1), 4C(2), article 6 or 7 of the Fuel Regulations.”

Amendment of section 14 of Act of 1987.

11.—Section 14 of the Act of 1987 is amended—

(a) by inserting the following subsection after subsection (5):

“(5A) Where an authorised person has reasonable grounds for apprehending any serious obstruction in the performance of his or her functions or otherwise considers it necessary, he or she may be accompanied by a member of the Garda Síochána when performing any functions conferred on him or her under this Act or any regulations made under it.”,

and

(b) in subsection (6) by inserting “under subsection (6A)” after “for a warrant”,

(c) by inserting the following subsection after subsection (6):

“(6A) Without prejudice to the powers conferred on an authorised person by or under any other provision of this section, if a judge of the District Court is satisfied by information on oath of an authorised person that there are reasonable grounds for believing that there is, or such entry is likely to disclose, evidence of a contravention of this Act, or regulations made under it, the judge may issue a warrant authorising an authorised person, accompanied by such other authorised persons or by a member or members of the Garda Síochána as may be necessary, at any time or times, within one month from the date of issue of the warrant, on production of the warrant if requested, to enter the place, if necessary by the use of reasonable force, and perform the functions conferred on an authorised person under this Act or any regulations made under it.”.

PART 4

AMENDMENT OF ACT OF 1996

Amendment of section 72 of Act of 1996.

12.—Section 72 of the Act of 1996 is amended—

(a) by substituting the following subsections for subsection (3):

“(3) The amount of the levy shall be specified in the regulations under subsection (2) but shall not exceed an amount of 70 cent for each plastic bag supplied to a customer.

(3A) The Minister may, subject to subsections (3) and (3B), amend the amount of the levy specified in regulations under subsection (2) for the purposes of promoting—

(a) the prevention of the generation of waste, and

(b) the reduction of the use of plastic bags,

once and once only in each financial year beginning with the financial year following the financial year in which the *Environment (Miscellaneous Provisions) Act 2011* is passed.

(3B) The amount to which the amount of the levy standing specified in regulations under subsection (2) may be amended shall, subject to subsection (3C), be obtained by multiplying the amount of the levy standing specified for the time being in regulations made under subsection (2) by the figure specified in subsection (3D) and if—

- (a) the amount so obtained is not a whole number of cent, and
- (b) the Minister considers it appropriate to do so and specifies in the regulations that the amount has so been rounded,

rounding (up or down as he or she thinks fit) the amount to the nearest whole number of cent.

(3C) The Minister may, where he or she considers it appropriate for the purposes referred to in subsection (3A), add, to the amount obtained in accordance with subsection (3B), a figure which is not greater than 10 per cent of the amount of the levy standing specified in regulations under subsection (2) and if—

- (a) the amount so obtained is not a whole number of cent, and
- (b) the Minister considers it appropriate to do so, and specifies in the regulations that the amount has been so rounded,

rounding (up or down as he or she thinks fit) the amount to the nearest whole number of cent.

(3D) The figure mentioned in subsection (3B) is the quotient, rounded up to 3 decimal places, obtained by dividing the consumer price index number relevant to the financial year in which the regulations amending the levy are made by the consumer price index number relevant to the financial year in which the regulations amending the levy were last made.”,

- (b) by deleting subsection (4E),
- (c) by deleting subsections (7) and (8), and
- (d) in subsection (12)(a)(ii), by deleting clause (II).

13.—Section 73 of the Act of 1996 is amended—

- (a) in subsection (1), by substituting “such other Minister of the Government, if any, as the Minister considers appropriate” for “any Minister of the Government concerned”,

Amendment of section 73 of Act of 1996.

[No. 20.] *Environment (Miscellaneous Provisions) [2011.] Act 2011.*

- (b) in subsection (1)(a), by substituting “paragraph D1 or D5 of the Third Schedule” for “paragraph 1 or 5 of the Third Schedule”,
- (c) in subsection (1)(b) by substituting “paragraph D1 or D5 of the Third Schedule” for “paragraph 1 or 5 of the Third Schedule”,
- (d) by substituting the following subsections for subsection (3):

“(3) The amount of the levy shall be specified in the regulations under subsection (1) but shall not exceed an amount of €120 for each tonne of waste disposed of.

(3A) The Minister may, subject to subsections (3) and (3B), amend the amount of the levy standing specified in regulations under subsection (1) for the purposes of promoting—

- (a) the prevention of the generation of waste, and
- (b) the reduction of the quantity of waste disposed of by means of an activity referred to in subsection (1),

once and once only in each financial year beginning with the financial year in which the *Environment (Miscellaneous Provisions) Act 2011* is passed.

(3B) The Minister shall, when amending the amount of levy standing specified in regulations under subsection (1), substitute an amount that does not exceed the amount so standing specified by €50.”

- (e) by inserting the following subsections after subsection (5):

“(5A) Where any amount of levy becomes payable in accordance with regulations made under this section and is not paid, simple interest on the amount shall be paid by the person liable to pay the levy and such interest shall be calculated from the date on which the levy became payable and at a rate of 0.0322 per cent for each day or part of a day during which the amount remains unpaid.

(5B) Interest due in accordance with subsection (5A) shall be payable to the Environment Fund in the manner specified in the regulations under subsection (1) and the provisions of those regulations relating to the recovery of the levy shall apply to the interest as if it were levy.

(5C) Interest paid in accordance with subsection (5A) shall be treated as levy for the purposes of—

- (a) subsection (8), in relation to provision under that subsection for levy by virtue of paragraph (1) of section 72(6), and
- (b) section 74(7).”

and

(f) by deleting subsection (9).

14.—(1) Section 74 of the Act of 1996 is amended—

Amendment of section 74 of Act of 1996.

(a) in subsection (7) by substituting “72 or 73” for “72 or 74”, and

(b) in subsection (9) by inserting the following paragraph after paragraph (k):

“(ka) to facilitate, assist, support or promote initiatives undertaken by international organisations or other persons outside the State in respect of the protection of the environment or sustainable development or both,”.

PART 5

AMENDMENT OF PLANNING AND DEVELOPMENT ACT 2000

15.—In this Part—

Definitions.

“Act of 2000” means the Planning and Development Act 2000;

“Act of 2006” means the Planning and Development (Strategic Infrastructure) Act 2006;

“Act of 2010” means the Planning and Development (Amendment) Act 2010.

16.—Section 2(1) of the Act of 2000 is amended by inserting the following definitions:

Amendment of section 2 of Act of 2000.

“ ‘operator’ in relation to a quarry means a person who at all material times is in charge of the carrying on of quarrying activities at a quarry or under whose direction such activities are carried out;

‘quarry’ has the meaning assigned to it by section 3 of the Mines and Quarries Act 1965;”.

17.—(1) Section 4 of the Act of 2000 is amended—

Amendment of section 4 of Act of 2000.

(a) in subsection (1)—

(i) by substituting the following paragraph for paragraph (i):

“(i) development consisting of the thinning, felling or replanting of trees, forests or woodlands or works ancillary to that development, but not including the replacement of broadleaf high forest by conifer species;”.

(ii) by inserting the following paragraph after paragraph (i):

“(ia) development (other than where the development consists of provision of access to a public road) consisting of the construction, maintenance or improvement of a road (other than a public road) or works ancillary to such road development, where the road serves forests and woodlands;”;

(iii) in paragraph (l), by inserting “or works consisting of land reclamation or reclamation of estuarine marsh land and of callows, referred to in section 2 of that Act” after “the works are commenced”,

and

(b) by substituting the following subsection for subsection (4):

“(4) Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

(4A) Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

- (a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and
- (b) as respects which an environmental impact assessment or an appropriate assessment is required,

to be exempted development.”.

(2) The amendment to section 4 of the Act of 2000 effected by *subsection (1)* shall not apply as respects development—

- (a) begun prior to the commencement of this section, and
- (b) completed not later than 12 months after such commencement,

unless, immediately before such commencement, the development was being carried on in contravention of the Act of 2000 or regulations under that Act.

Amendment of section 13 of Act of 2000.

18.—Section 13 of the Act of 2000 is amended—

- (a) in subsection (2)(a) (amended by section 10(a) of the Act of 2010) by inserting “the Minister for Arts, Heritage and the Gaeltacht,” after “the Minister,”; and
- (b) in subsection (8)(c) (amended by section 10(e) of the Act of 2010) by inserting “the Minister for Arts, Heritage and the Gaeltacht,” after “the Minister,”.

19.—Section 30 of the Act of 2000 is amended by the insertion of “save as provided for by sections 177X, 177Y, 177AB and 177AC” after “concerned”. Amendment of Section 30 of Act of 2000.

20.—Section 50A of the Act of 2000 is amended— Amendment of section 50A of Act of 2000.

(a) in subsection (3)(b)(i) by substituting “sufficient interest” for “substantial interest”, and

(b) in subsection (4) by substituting “sufficient interest” for “substantial interest”.

21.—Section 50B of the Act of 2000 is amended by— Amendment of section 50B of Act of 2000.

(a) substituting the following subsection for subsection (2):

“(2) Notwithstanding anything contained in Order 99 of the Rules of the Superior Courts (S.I. No. 15 of 1986) and subject to subsections (2A), (3) and (4), in proceedings to which this section applies, each party to the proceedings (including any notice party) shall bear its own costs.”,

and

(b) inserting the following subsection after subsection (2):

“(2A) The costs of proceedings, or a portion of such costs, as are appropriate, may be awarded to the applicant to the extent that the applicant succeeds in obtaining relief and any of those costs shall be borne by the respondent or notice party, or both of them, to the extent that the actions or omissions of the respondent or notice party, or both of them, contributed to the applicant obtaining relief.”.

22.—(1) Subsection (1) of section 57 (amended by section 34 of the Act of 2010) of the Act of 2000 is amended by inserting “(ia)” between “(i)” and “(j)”. Amendment of section 57 of Act of 2000.

(2) The amendment effected by *subsection (1)* shall not apply to development begun prior to the commencement of this section and completed not later than 12 months after such commencement, unless, immediately before such commencement, the development was being carried on in contravention of the Act of 2000 or regulations made under that Act.

23.—(1) Subsection (1) of section 82 of the Act of 2000 is amended by substituting “Notwithstanding paragraph (a), (h), (i), (ia), (j), (k) or (l) of section 4(1), or any regulations made under section 4(2),” for “Notwithstanding section 4(1)(h),”. Amendment of section 82 of Act of 2000.

(2) The amendment effected by *subsection (1)* shall not apply to development begun prior to the commencement of this section and completed not later than 12 months after such commencement, unless, immediately before such commencement, the development was being carried on in contravention of the Act of 2000 or regulations made under that Act.

Amendment of
section 87 of Act of
2000.

24.—(1) Subsection (1) of section 87 of the Act of 2000 is amended by substituting “Notwithstanding paragraph (a), (h), (i), (ia), (j), (k) or (l) of section 4(1), or any regulations made under section 4(2),” for “Notwithstanding section 4 and any regulations made thereunder,”.

(2) The amendment effected by *subsection (1)* shall not apply to development begun prior to the commencement of this section and completed not later than 12 months after such commencement, unless, immediately before such commencement, the development was being carried on in contravention of the Act of 2000 or regulations made under it.

Amendment of
section 130 of Act
of 2000.

25.—Section 130 of the Act of 2000 is amended by substituting the following subsection for subsection (5) (amended by section 42 of the Act of 2010):

“(5) Subsections (1)(b) and (4) shall not apply to submissions or observations made by a Member State or another state which is a party to the Transboundary Convention, arising from consultation in accordance with the Environmental Impact Assessment Directive or the Transboundary Convention, as the case may be, in relation to the effects on the environment of the development to which the appeal under section 37 relates.”.

Amendment of
section 135 of Act
of 2000.

26.—Section 135 (amended by section 23 of the Act of 2006) of the Act of 2000 is amended—

(a) in subsection (2) by substituting “given by the Board under subsection (2A) or (2AB))” for “given by the Board under subsection (2A))”,

(b) by inserting the following subsections after subsection (2A):

“(2AB) The Board may in its absolute discretion, following a recommendation in relation to the matter from a person assigned to make a written report under section 146, give a direction to a person assigned to conduct an oral hearing that he or she shall allow points or arguments in relation to specified matters only during the oral hearing.

(2AC) Where a direction is given by the Board under subsection (2AB) the person to whom it is given shall comply with the direction unless that person forms the opinion that it is necessary, in the interests of observing fair procedures, to allow a point or an argument to be made during the oral hearing in relation to matters not specified in the direction.

(2AD) The Board shall give a notice of its direction under subsection (2AB) to—

(a) each party, in the case of an appeal or referral,

(b) the applicant and planning authority in the case of an application—

(i) under this Act,

- (ii) for a railway order under the Act of 2001, or
- (iii) for approval under section 51 of the Roads Act 1993, and
- (c) each person who has made objections, submissions or observations to the Board in the case of an appeal, referral or application.

(2AE) The points or summary of the arguments that a person intending to appear at the oral hearing shall submit to the person conducting the hearing, where a direction has been given under subsection (2A) or (2AB), shall be limited to points or arguments in relation to matters specified in the direction under subsection (2AB).”

- (c) In subsection (2B) (inserted by section 23 of the Act of 2006), by inserting the following paragraph after paragraph (d):

“(dd) may refuse to allow the making of a point or an argument in relation to any matter where—

- (i) a direction has been given under subsection (2AB) and the matter is not specified in the direction, and
- (ii) he or she has not formed the opinion referred to in subsection (2AC).”.

27.—Section 153 (amended by section 45 of the Act of 2010) of the Act of 2000 is amended—

Amendment of section 153 of Act of 2000.

- (a) by repealing subsection (6),
- (b) by substituting the following subsections for subsection (7):

“(7) Where a planning authority establishes, following an investigation under this section that unauthorised development (other than development that is of a trivial or minor nature) has been or is being carried out and the person who has carried out or is carrying out the development has not proceeded to remedy the position, then the authority shall issue an enforcement notice under section 154 or make an application pursuant to section 160, or shall both issue such a notice and make such an application, unless there are compelling reasons for not doing so.

(8) Nothing in this section shall operate to prevent or shall be construed as preventing a planning authority, in relation to an unauthorised development which has been or is being carried out, from both issuing an enforcement notice under section 154 and making an application pursuant to section 160.”.

Amendment of section 157 of Act of 2000.

28.—Subsection (4) of section 157 of the Act of 2000 is amended by inserting the following paragraphs after paragraph (a):

“(aa) Notwithstanding paragraph (a) a warning letter or enforcement notice may issue at any time or proceedings for an offence under this Part may commence at any time in respect of unauthorised quarry development or unauthorised peat extraction development in the following circumstances:

(i) where no permission for the development has been granted under Part III and the development commenced not more than 7 years prior to the date on which this paragraph comes into operation;

(ii) where permission for the development has been granted under Part III and, as respects the permission—

(I) the appropriate period (within the meaning of section 40), or

(II) the appropriate period as extended under section 42 or 42A,

expired not more than 7 years prior to the date on which this paragraph comes into operation.

(ab) Notwithstanding paragraph (a) or (aa) a warning letter or enforcement notice may issue at any time to require any unauthorised quarry development or unauthorised peat extraction development to cease and proceedings for an offence under section 154 may issue at any time in relation to an enforcement notice so issued.”.

Amendment of section 160 of Act of 2000.

29.—Subsection (6) of section 160 of the Act of 2000 is amended by inserting the following paragraphs after paragraph (a):

“(aa) Notwithstanding paragraph (a) an application to the High Court or Circuit Court for an order under this section may be made at any time in respect of unauthorised quarry development or unauthorised peat extraction development in the following circumstances:

(i) where no permission for the development has been granted under Part III and the development commenced not more than 7 years prior to the date on which this paragraph comes into operation;

(ii) where permission for the development has been granted under Part III and, as respects the permission—

(I) the appropriate period (within the meaning of section 40), or

(II) the appropriate period as extended under section 42 or 42A,

expired not more than 7 years prior to the date on which this paragraph comes into operation.

(ab) Notwithstanding paragraph (a) or (aa), an application to the High Court or Circuit Court may be made at any time for an order under this section to cease unauthorised quarry development or unauthorised peat extraction development.”.

30.—Subsection (2) of section 170 of the Act of 2000 is amended by substituting “Subject to the provisions of Part X or Part XAB, or both of those Parts as appropriate, a planning authority shall” for “A planning authority shall”. Amendment of section 170 of Act of 2000.

31.—Section 177R (inserted by section 57 of the Act of 2010) of the Act of 2000 is amended by the substitution of the following definition for the definition of “candidate special protection area”:

“ ‘candidate special protection area’ means a site in relation to which the Minister for Arts, Heritage and the Gaeltacht has given notice pursuant to regulations under the European Communities Act 1972 that he or she considers that the site may be eligible for classification as a special protection area pursuant to Article 4 of the Birds Directive but only until the public notification of the making of a decision by that Minister to classify or not to classify such a site as a special protection area;”.

32.—The Act of 2000 is amended by substituting the following section for section 177X (inserted by section 57 of the Act of 2010): European site that does not host priority habitat or species and draft Land use plan.

“177X.—(1) Where the Minister receives a statement of case under section 177W(1) relating to a European site that does not host a priority habitat type or priority species, he or she shall as soon as possible—

- (a) consider whether imperative reasons of overriding public interest exist,
 - (b) consult with such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister, and
 - (c) consider any views of a Minister of the Government consulted pursuant to paragraph (b) and which are received by the Minister before he or she issues a notice under subsection (5) or (6).
- (2) (a) Where the Minister considers that imperative reasons of overriding public interest may exist, he or she shall as soon as possible request the views of the Minister for Arts, Heritage and the Gaeltacht as to whether the compensatory measures specified in the statement of case are sufficient to ensure that the overall coherence of the Natura 2000 network is protected.

- (b) Following receipt of the views of the Minister for Arts, Heritage and the Gaeltacht, the Minister may enter into consultations with the competent authority, who may submit a revised or modified plan or revised or modified compensatory measures.
- (c) The Minister may enter into consultations with the Minister for Arts, Heritage and the Gaeltacht and further consultations with the competent authority in relation to the draft Land use plan, or revised or modified draft Land use plan or the compensatory measures or revised or modified compensatory measures.

(3) The Minister for Arts, Heritage and the Gaeltacht, as soon as possible after the request of the Minister for views under subsection (2)(a) or, as the case may be, the completion of consultations with the Minister under subsection (2)(c) shall furnish an opinion to the Minister as to whether the compensatory measures, or revised or modified compensatory measures, as the case may be, are sufficient to ensure that the overall coherence of the Natura 2000 network is protected.

(4) The Minister for Arts, Heritage and the Gaeltacht, when giving his or her opinion on the compensatory measures under subsection (3), may also give his or her views as to whether imperative reasons of overriding public interest exist, and any such views shall be considered by the Minister before he or she issues a notice under subsection (5) or (6).

(5) Where the Minister forms the opinion that imperative reasons of overriding public interest exist, and the Minister for Arts, Heritage and the Gaeltacht has furnished an opinion that the compensatory measures, or revised or modified compensatory measures, as the case may be, are sufficient to ensure that the overall coherence of the Natura 2000 network is protected, the Minister shall as soon as possible issue a notice to this effect to the competent authority and the competent authority may decide to make—

- (a) the Land use plan, or
- (b) that part of the Land use plan that would have an adverse effect on the integrity of a European site.

(6) Where the Minister forms the opinion that imperative reasons of overriding public interest do not exist, or the Minister for Arts, Heritage and the Gaeltacht has furnished an opinion that the compensatory measures or revised or modified compensatory measures, as the case may be, are not sufficient to ensure that the overall coherence of the Natura 2000 network is protected, the Minister shall as soon as possible issue a notice to this effect to the competent authority and the competent authority shall not make—

- (a) the Land use plan, or
- (b) that part of the Land use plan that would have an adverse effect on the integrity of a European site.

(7) Where the Minister issues a notice under subsection (5) he or she shall inform the Commission of the matter, including the compensatory measures proposed.

(8) The competent authority shall make available for inspection by members of the public during office hours at the office of the authority, and may also publish on the internet a notice issued to the authority under subsection (5) or (6).”.

33.—The Act of 2000 is amended by substituting the following section for section 177Y (inserted by section 57 of the Act of 2010):

European site that hosts priority habitat or species and draft Land use plan.

“177Y.—(1) Where the Minister receives a statement of case under section 177W(1) relating to a European site that hosts a priority habitat type or priority species, he or she shall as soon as possible—

- (a) consider whether imperative reasons of overriding public interest exist,
 - (b) consult with such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister, and
 - (c) consider any views of a Minister of the Government consulted pursuant to paragraph (b) and which are received by the Minister before he or she issues a notice under subsection (6), (7) or (8).
- (2) (a) Where the Minister considers that imperative reasons of overriding public interest may exist and may comprise or include a reason or reasons other than the reasons set out in section 177W(4)(a) to (c), the Minister shall consider whether the opinion of the Commission should be sought in relation to the matter.
- (b) Where the Minister proposes not to seek the opinion of the Commission pursuant to paragraph (a) he or she shall, in addition to any consultation that may have taken place under subsection (1)(b), as soon as possible consult with such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister and request that the other Minister furnish his or her views as soon as possible.
- (c) The Minister shall consider any views received from any other Minister of the Government consulted under paragraph (b) where those views are received by the Minister before he or she decides whether to seek the opinion of the Commission under paragraph (a).
- (3) (a) Where the Minister considers that imperative reasons of overriding public interest may exist, he or she shall, as soon as possible, request the views of the Minister for Arts, Heritage and the Gaeltacht as to whether the compensatory measures specified in the statement of case are sufficient to ensure that the

overall coherence of the Natura 2000 network is protected.

- (b) Following receipt of the views of the Minister for Arts, Heritage and the Gaeltacht, the Minister may enter into consultations with the competent authority, who may submit a revised or modified plan or revised or modified compensatory measures.
- (c) The Minister may enter into consultations with the Minister for Arts, Heritage and the Gaeltacht and further consultations with the competent authority in relation to the draft Land use plan, or revised or modified draft Land use plan or the compensatory measures or revised or modified compensatory measures.

(4) The Minister for Arts, Heritage and the Gaeltacht, as soon as possible after the request of the Minister for views under subsection (3)(a) or, as the case may be, the completion of consultations with the Minister under subsection (3)(c) shall furnish an opinion to the Minister as to whether the compensatory measures, or revised or modified compensatory measures, as the case may be, are sufficient to ensure that the overall coherence of the Natura 2000 network is protected.

(5) The Minister for Arts, Heritage and the Gaeltacht when giving his or her opinion on the compensatory measures under subsection (4), may also give his or her views as to whether imperative reasons of overriding public interest exist and any such views shall be considered by the Minister before he or she issues a notice under subsection (6), (7) or (8).

(6) Where the Minister forms the opinion that imperative reasons of overriding public interest comprising only a reason or reasons set out in section 177W(4)(a) to (c) exist, and the Minister for Arts, Heritage and the Gaeltacht has furnished an opinion that the compensatory measures, or revised or modified compensatory measures as the case may be, are sufficient to ensure that the overall coherence of the Natura 2000 network is protected, the Minister shall issue a notice to this effect to the competent authority and the competent authority may decide to make—

- (a) the Land use plan, or
- (b) that part of the Land use plan that would have an adverse effect on the integrity of a European site.

(7) Where—

- (a) the Minister forms the opinion that imperative reasons of overriding public interest, comprising or including a reason or reasons other than those in section 177W(4)(a) to (c) exist, and
- (b) the Minister has obtained the opinion of the Commission in relation to the matter, and
- (c) the Minister for Arts, Heritage and the Gaeltacht has furnished an opinion that the compensatory measures, or revised or modified compensatory

measures as the case may be, are sufficient to ensure that the overall coherence of the Natura 2000 network is protected,

the Minister shall issue a notice to this effect to the competent authority, accompanied by a copy of the opinion of the Commission, and the competent authority, only after having considered the opinion of the Commission, may decide to make—

- (i) the Land use plan, or
 - (ii) that part of the Land use plan that would have an adverse effect on the integrity of a European site.
- (8) Where—
- (a) the Minister forms the opinion that imperative reasons of overriding public interest do not exist, or
 - (b) the Minister forms the opinion that the imperative reasons of overriding public interest comprise or include a reason or reasons other than those in section 177W(4)(a) to (c) and the Minister has decided not seek the opinion of the Commission in relation to the matter, or
 - (c) the Minister for Arts, Heritage and the Gaeltacht has furnished an opinion that the compensatory measures, or revised or modified compensatory measures as the case may be, are not sufficient to ensure that the overall coherence of the Natura 2000 network is protected,

the Minister shall issue a notice to this effect to the competent authority and the competent authority shall not make—

- (i) the Land use plan, or
- (ii) that part of the Land use plan that would have an adverse effect on the integrity of a European site.

(9) Where the Minister issues a notice under subsection (6) or (7) he or she shall inform the Commission of the matter, including the compensatory measures proposed.

(10) The competent authority shall make available for inspection by members of the public during office hours at the office of the authority, and may also publish on the internet a notice issued to the authority under subsection (6), (7) or (8).”.

34.—Section 177Z (inserted by section 57 of the Act of 2010) of the Act of 2000 is amended by the substitution of the following subsection for subsection (1): Amendment of section 177Z of Act of 2000.

“(1) Where a competent authority has received a notice from the Minister under section 177X(6) or section 177Y(8) in relation to a draft Land use plan, and the authority is satisfied that the draft plan can be amended so that it no longer contains the parts or elements which were the subject of a determination

under section 177V that the plan would adversely affect a European site, then the authority may make the plan having omitted those parts or elements therefrom.”.

European site that does not host priority habitat or species.

35.—The Act of 2000 is amended by substituting the following section for section 177AB (inserted by section 57 of the Act of 2010):

“177AB.—(1) (a) Where the Minister receives a statement of case under section 177AA(1) relating to a European site that does not host a priority habitat type or priority species, he or she shall as soon as possible request the views of the Minister for Arts, Heritage and the Gaeltacht as to whether the compensatory measures are sufficient to ensure that the overall coherence of the Natura 2000 network is protected.

(b) Following receipt of the views of the Minister for Arts, Heritage and the Gaeltacht, the Minister may enter into consultations with the competent authority, who having consulted with the applicant for consent for the proposed development, may submit to the Minister a modified proposal for the development, modified proposed conditions to be attached to the proposed development or modified or alternative proposed compensatory measures.

(c) The Minister may enter into consultations with the Minister for Arts, Heritage and the Gaeltacht and further consultations with the competent authority in relation to the proposal for the development or any modified proposal for the development, the proposed conditions or any modified proposed conditions to be attached to the proposed development and the compensatory measures or any alternative proposed compensatory measures.

(2) The Minister for Arts, Heritage and the Gaeltacht as soon as possible after the request of the Minister for views under subsection (1)(a) or, as the case may be, the completion of consultations with the Minister under subsection (1)(c), shall furnish an opinion to the Minister as to whether the compensatory measures or modified or alternative proposed compensatory measures, as the case may be, are sufficient to ensure that the overall coherence of the Natura 2000 network is protected.

(3) Where the Minister for Arts, Heritage and the Gaeltacht has furnished an opinion that the compensatory measures, or revised or modified compensatory measures, as the case may be, are sufficient to ensure that the overall coherence of the Natura 2000 network is protected, the Minister as soon as possible following the receipt of the opinion, shall issue a notice to this effect to the competent authority and the competent authority may decide to grant consent for the proposed development with or without conditions.

(4) Where the Minister for Arts, Heritage and the Gaeltacht has furnished an opinion that the compensatory measures, or revised or modified compensatory measures, as the case may be, are not sufficient to ensure that the overall coherence of the Natura 2000 network is protected, the Minister as soon as possible following the receipt of the opinion shall issue a notice to

this effect to the competent authority and the competent authority shall not grant consent for the proposed development.

(5) Where the Minister issues a notice under subsection (3) he or she shall inform the Commission of the matter, including the compensatory measures proposed.

(6) The competent authority shall make available for inspection by members of the public during office hours at the office of the authority, and may also publish on the internet a notice issued to the authority under subsection (3) or (4).”.

36.—The Act of 2000 is amended by substituting the following section for section 177AC (inserted by section 57 of the Act of 2010): European site that hosts priority habitat or species.

“177AC.—(1) (a) Where the Minister receives a statement of case under section 177AA(1) relating to a European site that hosts a priority habitat type or priority species he or she shall as soon as possible request the views of the Minister for Arts, Heritage and the Gaeltacht as to whether the compensatory measures are sufficient to ensure that the overall coherence of the Natura 2000 network is protected.

(b) Following receipt of the views of the Minister for Arts, Heritage and the Gaeltacht, the Minister may enter into consultations with the competent authority, who having consulted with the applicant for consent for the proposed development, may submit to the Minister a modified proposal for the development, modified proposed conditions to be attached to the proposed development, or modified or alternative proposed compensatory measures.

(c) The Minister may enter into consultations with the Minister for Arts, Heritage and the Gaeltacht and into further consultations with the competent authority in relation to the proposal for the development or any modified proposal for the development, the proposed conditions or any modified proposed conditions to be attached to the proposed development and the compensatory measures or any modified or alternative proposed compensatory measures.

(2) (a) Where the Minister considers that the imperative reasons of overriding public interest comprise or include a reason or reasons other than the reasons set out in section 177AA(4)(a) to (c), the Minister shall consider whether the opinion of the Commission should be sought in relation to the matter.

(b) Where the Minister proposes not to seek the opinion of the Commission he or she shall as soon as possible consult with such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister and request that other Minister to furnish his or her views as soon as possible.

(c) The Minister shall consider any views received from any other Minister of the Government consulted

under paragraph (b) where those views are received by the Minister before he or she decides whether to seek the opinion of the Commission under paragraph (a).

(3) The Minister for Arts, Heritage and the Gaeltacht, as soon as possible after the request of the Minister for views under subsection (1)(a) or, as the case may be, the completion of consultations with the Minister under subsection (1)(c), shall furnish an opinion to the Minister as to whether the compensatory measures or modified or alternative proposed compensatory measures, as the case may be, are sufficient to ensure that the overall coherence of the Natura 2000 network is protected.

(4) Where the Minister forms the opinion that the imperative reasons of overriding public interest comprise only a reason or reasons set out in section 177AA(4)(a) to (c) and the Minister for Arts, Heritage and the Gaeltacht has furnished an opinion that the compensatory measures, or revised or modified compensatory measures as the case may be, are sufficient to ensure that the overall coherence of the Natura 2000 network is protected, the Minister shall issue a notice to this effect to the competent authority and the competent authority may decide to grant consent for the proposed development, with or without conditions.

(5) Where—

- (a) the Minister forms the opinion that the imperative reasons of overriding public interest comprise or include a reason or reasons other than those in section 177AA(4)(a) to (c), and
- (b) the Minister has obtained the opinion of the Commission in relation to the matter, and
- (c) the Minister for Arts, Heritage and the Gaeltacht has given an opinion that the compensatory measures, or revised or modified compensatory measures as the case may be, are sufficient to ensure that the overall coherence of the Natura 2000 network is protected,

the Minister shall issue a notice to this effect to the competent authority, accompanied by a copy of the opinion of the Commission, and the competent authority, only after having considered the opinion of the Commission may decide to grant consent for the proposed development, with or without conditions.

(6) Where—

- (a) the Minister forms the opinion that the imperative reasons of overriding public interest comprise or include a reason or reasons other than those in section 177AA(4)(a) to (c) and the Minister has decided not to seek the opinion of the Commission in relation to the matter, or
- (b) the Minister for Arts, Heritage and the Gaeltacht has given as his or her opinion that the compensatory measures or modified or alternative proposed compensatory measures, as the case may be, are not

sufficient to ensure the overall coherence of the Natura 2000 network is protected,

the Minister shall issue a notice to this effect to the competent authority and the competent authority shall not grant consent for the proposed development.

(7) Where the Minister issues a notice under subsection (4) or (5) he or she shall inform the Commission of the matter, including the compensatory measures proposed.

(8) The competent authority shall make available for inspection by members of the public during office hours at the offices of the authority and may also publish on the internet a notice issued to the authority under subsection (6), (7) or (8).”.

37.—Section 181A (inserted by section 36 of the Act of 2006) of the Act of 2000 is amended as follows— Amendment of section 181A of Act of 2000.

- (a) by substituting “effects on the environment or adverse effects on the integrity of a European site, as the case may be,” for “effects on the environment” in each place (other than in subsections (3)(a)(i)(III) and (3)(c)) where it occurs,
- (b) by substituting “environmental impact statement or Natura impact statement or both of those statements, as the case may be,” for “environmental impact statement” in each place (other than in subsections (3)(c), (4)(b) and (7)(a)(ii)) where it occurs, and
- (c) by substituting “revised environmental impact statement or revised Natura impact statement or both of those statements, as the case may be,” for “revised environmental impact statement” in both places where it occurs in subsections (4)(b) and (7)(a)(ii).

38.—Section 181B (inserted by section 36 of the Act of 2006) of the Act of 2000 is amended— Amendment of section 181B of Act of 2000.

- (a) by substituting “environmental impact statement or Natura impact statement or both of those statements, as the case may be,” for “environmental impact statement” in each place where it occurs,
- (b) in subsection (1), by substituting “effects on the environment or adverse effects on the integrity of a European site”, for “effects on the environment” in each place where it occurs, and
- (c) in subsection (3) by substituting “the effects, if any of the proposed development on the environment or adverse effects, if any of the proposed development on the integrity of a European site” for “the effects, if any of the proposed development on the environment”.

39.—Section 182A (inserted by section 4 of the Act of 2006) of the Act of 2000 is amended— Amendment of section 182A of Act of 2000.

- (a) by substituting “effects on the environment or adverse effects on the integrity of a European site, as the case may be,” for “effects on the environment” in each place (other than in subsections (4)(a)(i)(III) and (4)(c)) where it occurs,
- (b) by substituting “environmental impact statement or Natura impact statement or both of those statements, as the case may be,” for “environmental impact statement” in each place (other than in subsection (4)(c), (5)(b) and in both places in subsection (8)(a)) where it occurs,
- (c) by substituting “revised environmental impact statement or revised Natura impact statement or both of those statements, as the case may be,” for “revised environmental impact statement” where it occurs in subsections (5)(b) and (8)(a)(ii), and
- (d) by substituting “revised environmental impact statement or revised Natura impact statement or both of those statements, as the case may be,” for “environmental impact statement” where it occurs for the second time in subsection (8)(a).

Amendment of section 182C of Act of 2000.

40.—Section 182C (inserted by section 4 of the Act of 2006) of the Act of 2000 is amended—

- (a) by substituting “effects on the environment or adverse effects on the integrity of a European site, as the case may be,” for “effects on the environment” in each place (other than in subsection (4)(a)(i)(III), and both places in subsection (4)(b)) where it occurs,
- (b) by substituting “environmental impact statement or Natura impact statement or both of those statements, as the case may be,” for “environmental impact statement” in each place (other than in both places in subsection (8)) where it occurs, and,
- (c) in subsection (8), by substituting—
 - (i) “a revised environmental impact statement or revised Natura impact statement or both of those statements, as the case may be,” for “a revised environmental impact statement”, and
 - (ii) “the revised environmental impact statement or revised Natura impact statement or both of those statements, as the case may be,” for “the environmental impact statement”.

Amendment of Seventh Schedule to Act of 2000.

41.—The Seventh Schedule to the Act of 2000 (inserted by section 5 of the Act of 2006) is amended by substituting the following paragraph for paragraph 4 (inserted by section 78 of the Act of 2010):

“Health Infrastructure

4. Development comprising the following:

A health care facility (other than a development which is predominantly for the purposes of providing care services (within the meaning of section 3 of the Nursing Homes Support Scheme Act 2009)) which, whether or not the facility is intended to form part of another health care facility, shall provide in-patient services and shall have not fewer than 100 beds in order to so provide.”.

42.—Sections 5, 35, 36, 43, 47, 48, 52, 60, 61, 63, paragraphs (b), (c) and (d) of section 65 and section 69 of the Act of 2010 are repealed. Repeal.

PART 6

MISCELLANEOUS

43.—The Third Schedule to the Freedom of Information Act 1997 is amended, at the end of Part I, by inserting— Amendment of Freedom of Information Act 1997.

- (a) in column (1), “No. 6 of 1987”,
- (b) in column (2), opposite the mention in column (1) of No. 6 of 1987, “Air Pollution Act 1987”, and
- (c) in column (3), opposite the mention in column (2) of Air Pollution Act 1987, “section 16(4)”.

44.—Section 6 of the Local Government Act of 1998 is amended— Amendment of Local Government Act 1998.

- (a) in subsection (2A) by substituting the following paragraph for paragraph (a):

“(a) public roads (within the meaning of the Act of 1993) and public transport infrastructure.”,

and

- (b) by inserting the following subsection after subsection (8):

“(9) In this section—

‘Act of 1993’ means the Roads Act 1993;

‘Act of 2001’ means the Transport (Railway Infrastructure) Act 2001;

‘bus’ means a mechanically propelled vehicle designed for travel by road having seating accommodation for more than 9 persons (including the driver);

‘busway’ has the meaning assigned to it by section 44(1) of the Act of 1993;

‘cycleway’ has the meaning assigned to it by section 68(1) of the Act of 1993;

‘interchange facilities’ means infrastructure or premises which facilitate transport users using different modes of

transport, including but not limited to park and ride facilities and facilities that allow for the stopping, parking or standing of taxis, cycles, motor cycles, buses, trains and cars in order to facilitate users of one mode of transport transferring to another mode;

‘light railway’ means a railway designated as a light railway in a railway order made under the Act of 2001;

‘metro’ means a railway designated as a metro in a railway order made under the Act of 2001;

‘public passenger transport services’ means rail passenger service or public bus service;

‘public transport infrastructure’ means infrastructure constructed or provided, or proposed to be constructed or provided in connection with the provision of public passenger transport services, for the use of and which includes but is not limited to railway infrastructure, metro railway infrastructure, light railway infrastructure, rolling stock, buses, busways, bus garages, cycleways, cycle and pedestrian facilities, or interchange facilities;

‘railway infrastructure’ has the meaning assigned to it by the Act of 2001.”.

Amendment of section 70 of Environmental Protection Agency Act 1992.

45.—Section 70 of the Environmental Protection Agency Act 1992 is amended in paragraph (a) by substituting “fourth” for “fifth”.

Repeal.

46.—Section 62 of the Act of 1996 is repealed.

Savings and transitionals.

47.—(1) The repeal, under *section 12(c)*, of subsections (7) and (8) of section 72 of the Act of 1996 shall not operate to affect—

- (a) regulations under section 72 of the Act of 1996 that are in force immediately before the commencement of that repeal, or
- (b) the amount of the levy specified, pursuant to section 72(3) of the Act of 1996, in those regulations—
 - (i) that is applicable immediately before the commencement of that repeal, and
 - (ii) provided for in regulations under that section made after the coming into operation of the Waste Management (Environmental Levy) (Plastic Bag) Order 2007 (S.I. No. 62 of 2007).

(2) The repeal, under *section 13(d)*, of subsection (9) of section 73 of the Act of 1996 shall not operate to affect—

- (a) regulations under subsection (1) of section 73 of the Act of 1996 that are in force immediately before the commencement of that repeal, or

- (b) the amount of the levy specified, pursuant to subsection (3) of section 73 of the Act of 1996, in those regulations—
 - (i) that is applicable immediately before the commencement of that repeal, and
 - (ii) provided for in regulations under that section made after the coming into operation of the Waste Management (Landfill Levy) Order 2010 (S.I. No. 13 of 2010).

48.—The Local Government Act 2001 is amended by the substitution of the following Part for Part 18: Placenames.

“PART 18

PLACENAMES

Interpretation. 188.—In this Part—

‘functional area’ means as respects—

- (a) a city council, the city,
- (b) a county council, the county exclusive of any town to which paragraph (c) applies,
- (c) a town council, the town;

‘locality’ means a part (other than a town, townland, non-municipal town or street) of a county, city or town in respect of which a name (other than the name of the county, city or town concerned) is in common use;

‘non-municipal town’ means a place (other than a city or town) that is designated a town in the most recent census report published by the Central Statistics Office setting out the final result of a census of population of the State (whether or not that is the most recent such census of population);

‘placename’ includes the name of a county, city, town, non-municipal town, village, barony, parish, townland, street or locality, or of any feature (whether natural or artificial), district, region or place, as described in a map produced by Ordnance Survey Ireland;

‘qualified elector’ means a person who, in relation to a place (including a street) to which a placename applies, is registered as a local government elector in the register of electors for the time being in force;

‘street’ includes—

- (a) part of a street, and

- (b) a road, square, lane or any other public place or part thereof.

Changing of placename.

189.—(1) A local authority may, in relation to a place situated within its functional area, by resolution passed by not less than half of the members standing elected or coopted for the time being to that local authority adopt a proposal to substitute a new placename (in this section referred to as the ‘proposed new placename’) for the then existing placename in respect of that place.

(2) The boundary of the place to which a proposal adopted under subsection (1) applies shall be described in that proposal whether by reference to a map or otherwise.

(3) A proposal adopted under subsection (1) shall specify the proposed new placename in the Irish language only or in both the Irish language and the English language.

(4) Where a local authority adopts a proposal under subsection (1) it shall—

- (a) notify such persons, or persons belonging to such class of person, as may be prescribed by regulations made by the Minister of the adoption of the proposal, and
- (b) publish a public notice of the proposal inviting submissions in writing from members of the public in relation thereto not later than 2 months from the date of the publication of the notice.

(5) A person who receives a notification under paragraph (a) of subsection (4) shall be entitled to make submissions in writing to the local authority that gave the notification in relation to the proposal concerned not later than 2 months from the date of the notification.

(6) A local authority shall consider any submissions received by it in accordance with a notification under paragraph (a) of subsection (4) or a notice under paragraph (b) of that subsection.

(7) After considering any submissions referred to in subsection (6), a local authority may, by resolution passed by not less than half of the members standing elected or coopted for the time being to that local authority decide—

- (a) to hold a ballot of the qualified electors registered in the place to which the proposed new placename applies in

respect of the proposed new placename or such alternative to the proposed new placename as it considers appropriate, or

(b) not to proceed with the proposal to change the placename of the place concerned.

(8) A ballot to which subsection (7) applies shall be in secret and shall be conducted in accordance with regulations made by the Minister.

(9) (a) Subject to subsection (3) of section 192, if a majority of the votes cast at a ballot held pursuant to a decision under subsection (7) is in favour of the proposed new placename concerned the Cathaoirleach of the local authority concerned shall make a declaration stating that, from such date (determined in accordance with paragraph (b)) as is specified in the declaration, that proposed new placename shall become and be the placename in respect of the place concerned.

(b) Where the Cathaoirleach of a local authority makes a declaration under this subsection, the placename specified in the declaration shall—

(i) if the declaration is made not less than 3 months before the 1st day of January next following the declaration, become and be the placename in respect of the place concerned from the said 1st day of January, or

(ii) in any other case, become and be the placename in respect of the place concerned from the first anniversary of the said 1st day of January.

(c) Every declaration under this subsection shall be published in such manner as may be prescribed by regulations made by the Minister and shall be notified in writing to such persons, or persons belonging to such class of person, as may be so prescribed.

(d) Every declaration under this subsection shall be published in *Iris Oifigiúil*, as soon as may be after its making.

(10) This section shall not apply to the townland, civil parish, non-municipal town or electoral division referred to in section 191.

Change of placename of place situated in more than one local authority area.

190.—(1) (a) A local authority may, in relation to a place that is situated—

- (i) in its functional area, and
- (ii) in the functional area of another local authority or the functional areas of other local authorities,

by resolution passed by not less than half of the members standing elected or coopted for the time being to the first-mentioned local authority, propose to substitute a new placename (in this section referred to as the ‘proposed new placename’) for the then existing placename in respect of that place.

(b) A proposal referred to in paragraph (a) shall stand adopted by the local authority first-mentioned in that paragraph upon the passing, in accordance with paragraph (c), of a resolution by each other local authority within whose functional area part of the place concerned is also situated consenting to the adoption of the proposal.

(c) A resolution referred to in paragraph (b) shall be passed by not less than half of the members standing elected or coopted for the time being to the local authority concerned.

(2) The boundary of the place to which a proposal adopted under subsection (1) applies shall be described in that proposal whether by reference to a map or otherwise.

(3) A proposal adopted under subsection (1) shall specify the proposed new placename in the Irish language only or in both the Irish language and the English language.

(4) Where a proposal stands adopted under subsection (1), each local authority shall, in respect of that part of the place situated in its functional area—

- (a) notify such persons, or persons belonging to such class of person, as may be prescribed by regulations made by the Minister of the adoption of the proposal, and
- (b) publish a public notice of the proposal inviting submissions in writing from members of the public in relation thereto not later than 2 months from the date of the publication of the notice.

(5) A person who receives a notification under paragraph (a) of subsection (4) shall be entitled to make submissions in writing to the local authority that gave the notification in relation to the proposal concerned not later than 2 months from the date of the notification.

(6) A local authority shall consider any submissions received by it in accordance with a notification under paragraph (a) of subsection (4) or a notice under paragraph (b) of that subsection.

(7) After considering any submissions referred to in subsection (6), each local authority concerned may, by resolution passed by not less than half of the members standing elected or coopted for the time being to that local authority decide—

(a) to hold a ballot of the qualified electors registered in the place to which the proposed new placename applies in respect of the proposed new placename or such alternative to the proposed new placename as the local authorities concerned consider appropriate, or

(b) not to proceed with the proposal to change the placename of the place concerned.

(8) A ballot to which subsection (7) applies shall be in secret and shall be conducted in accordance with regulations made by the Minister.

(9) (a) Subject to subsection (3) of section 192, if a majority of the votes cast at a ballot held pursuant to a decision under subsection (7) is in favour of the proposed new placename concerned the Cathaoirligh of the local authorities concerned shall jointly declare that, from such date (determined in accordance with paragraph (b)) as is specified in the declaration, that proposed new placename shall become and be the placename in respect of the place concerned.

(b) Where the Cathaoirligh of the local authorities concerned make a declaration under this subsection, the placename specified in the declaration shall—

(i) if the declaration is made not less than 3 months before the 1st day of January next following the declaration, become and be the placename in respect of the place concerned from the said 1st day of January, or

(ii) in any other case, become and be the placename in respect of the place concerned from the first anniversary of the said 1st day of January.

(c) Every declaration under this subsection shall be published in such manner as may be prescribed by regulations made by the Minister and shall be notified in writing to such persons, or persons belonging to such class of person, as may be so prescribed.

(d) Every declaration under this subsection shall be published in *Iris Oifigiúil*, as soon as may be after its making.

Daingean Uí Chúis.

191.—(1) The townland, civil parish, electoral division and non-municipal town that, immediately before the commencement of this section, was known (pursuant to the Order of 2004) as An Daingean shall, from such commencement, be known, in the Irish language, as Daingean Uí Chúis and, in the English language, as Dingle.

(2) The Order of 2004 is amended by the deletion—

(a) of the text in columns (1) and (2) of Caibidil 1 of Roinn A of Cuid 4 at reference number 171,

(b) of the text in columns (1) and (2) of Caibidil 2 of Roinn A of Cuid 4 at reference number 4, and

(c) of the text in columns (1) and (2) of Caibidil 4 of Roinn A of Cuid 4 at reference number 11.

(3) In this section ‘Order of 2004’ means the An t-Ordú Logainmneacha (Ceantair Ghaeltachta) 2004 (S.I. No. 872 of 2004).

General provisions relating to change of names.

192.—(1) The consideration of submissions received under this Part shall be a reserved function.

(2) A local authority shall, in adopting a proposal under section 189 or 190 have regard to local traditions.

(3) (a) If a majority of the votes cast at a ballot held pursuant to a decision under subsection (7) of section 189 or subsection (7) of section 190 in relation to a place in a Gaeltacht area is in favour of the proposed new placename concerned, the Minister for Arts, Heritage and Gaeltacht Affairs shall make an order declaring that, from such date

(determined in accordance with paragraph (b)) as is specified in the order, that proposed new placename shall become and be the placename in respect of the place concerned.

(b) Where the Minister for Arts, Heritage and Gaeltacht Affairs makes an order under this subsection, the placename to which the declaration in the order relates shall—

(i) if the order is made not less than 3 months before the 1st day of January next following the order, become and be the placename of the place concerned from the said 1st day of January, or

(ii) in any other case, become and be the placename of the place concerned from the first anniversary of the said 1st day of January.

(c) Every order under this subsection shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

(4) Where the Minister for Arts, Heritage and Gaeltacht Affairs makes an order under subsection (3), any provision of an order made under section 32 of the Official Languages Act 2003 in force immediately before the making of the first-mentioned order shall stand revoked in so far only as it conflicts with the first-mentioned order.

(5) (a) The Minister may make regulations for the purposes of this Part.

(b) Without prejudice to the generality of paragraph (a), regulations under that paragraph may make provision in relation to the bearing of the costs incurred by local authorities in the performance of their functions under section 190 or as a consequence of the substitution of a placename under that section.

(6) In this section ‘Gaeltacht area’ has the same meaning as it has in the Official Languages Act 2003.

Display of name of street or place. 193.—A local authority may cause the placename of a street or other place to be displayed on a conspicuous part of any building, structure or land located on that street or at that place.

Construction of references. 194.—(1) Where a declaration under section 189 or 190 is made in respect of a place—

(a) references in any enactment, instrument or other document to the placename of that place applicable immediately before the date specified in the declaration in accordance with subsection (9) of section 189 or subsection (9) of section 190, as the case may be, shall, from that date, be construed as references to the placename specified in that declaration, and

(b) references in any proceedings (civil or criminal) pending immediately before that date to the placename first-mentioned in paragraph (a) shall, from that date, be construed as references to the placename second-mentioned in that paragraph.

(2) Where an order under section 192 is made in respect of a place—

(a) references in any enactment, instrument or other document to the placename of that place applicable immediately before the date specified in the order in accordance with subsection (3) of that section shall, from that date, be construed as references to the placename specified in that order, and

(b) references in any proceedings (civil or criminal) pending immediately before that date to the placename first-mentioned in paragraph (a) shall, from that date, be construed as references to the placename second-mentioned in that paragraph.

(3) (a) References in any enactment, instrument or other document to An Daingean shall, from the commencement of section 191, be construed as references to Daingean Uí Chúis.

(b) References in any proceedings (civil or criminal) pending immediately before the commencement of section 191 to An Daingean shall, from such commencement, be construed as references to Daingean Uí Chúis.”.

49.—Section 32 of the Official Languages Act 2003 is amended by the substitution of the following subsection for subsection (2):

Amendment of
section 32 of
Official Languages
Act 2003.

“(2) The Minister shall not make an order under this section in respect of a place to which an order under subsection (3) of section 192 (inserted by *section 48* of the *Environment (Miscellaneous Provisions) Act 2011*) of the Local Government Act 2001 applies.”.