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*Number 44 of 2001*

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**HERITAGE FUND ACT, 2001**

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*Number 44 of 2001*

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**HERITAGE FUND ACT, 2001**

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AN ACT TO MAKE AVAILABLE FURTHER FINANCIAL RESOURCES FOR THE ACQUISITION OF HERITAGE OBJECTS AND, FOR THAT PURPOSE, TO PROVIDE FOR THE ESTABLISHMENT OF A FUND TO BE KNOWN AS THE HERITAGE FUND AND TO PROVIDE FOR THE ESTABLISHMENT OF A BODY TO BE KNOWN AS THE COUNCIL OF NATIONAL CULTURAL INSTITUTIONS OR, IN THE IRISH LANGUAGE, AN CHOMHAIRLE UM FHORAIS CHULTÚIR NÁISIÚNTA. [10th December, 2001]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Heritage Fund Act, 2001. Short title and commencement.

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

2.—(1) In this Act— Interpretation.

“Act of 2000” means the Copyright and Related Rights Act, 2000;

“Council” has the meaning assigned to it by *section 9*;

“eligible institution” means—

- (a) the National Archives,
- (b) the National Gallery of Ireland,
- (c) the National Library of Ireland,
- (d) the National Museum of Science and Art, or
- (e) the Irish Museum of Modern Art;

“Fund” has the meaning assigned to it by *section 3(1)*;

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“heritage object” means—

- (a) any object or collection of objects (including archaeological objects, and objects relating to the decorative arts, natural sciences, history, industry or folk-ways),
- (b) any book (within the meaning of section 198 of the Act of 2000), or any manuscript, other material or part thereof,
- (c) any artistic work (within the meaning of section 2 of the Act of 2000),
- (d) copyright in any work (within the meaning of the said section 2), or
- (e) any similar object or material,

considered appropriate by the Director or Chief Executive Officer, as the case may be, of an eligible institution (or other person for the time being performing the functions of Director or Chief Executive Officer, as may be appropriate, in relation to an eligible institution) for inclusion in the collection of the eligible institution concerned (or in the case of copyright in a work, for acquisition by the eligible institution concerned) being an object, collection of objects, manuscript, book, material (or, in the case of the acquisition of copyright in a work, being a work) that, in the opinion of the Council is an outstanding example of its type and pre-eminent in its class;

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

(2) In this Act—

- (a) a reference to a section is a reference to a section of this Act unless it is indicated that reference to some other enactment is intended,
- (b) a reference to a subsection or paragraph is a reference to a subsection or paragraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended, and
- (c) a reference to any enactment is a reference to that enactment as amended, extended or adapted by or under any subsequent enactment (including this Act) whether passed before or after the passing of this Act.

## PART 2

### THE FUND

The Fund.

**3.—**(1) On the coming into operation of this section there shall stand established a fund which shall be known as the Heritage Fund and is in this Act referred to as “the Fund”.

(2) The Fund shall consist of such accounts as the Minister for Finance shall, after consultation with the Minister, determine.

(3) As soon as may be, but not later than 3 months, after the end of the financial year 2001 and each subsequent financial year, the Minister shall—

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(a) prepare, in the Irish language and the English language, the accounts of the Fund, and

(b) submit those accounts in those languages, to the Comptroller and Auditor General for audit,

and the Minister shall cause a copy of an abstract in those languages of the accounts as so audited together with a copy of the report of the Comptroller and Auditor General thereon to be laid before each House of the Oireachtas not later than 3 months after receipt by the Minister of that report.

(4) Without prejudice to the functions conferred on the Minister by this Act, the Minister for Finance shall manage the Fund.

(5) Moneys standing to the credit of the Fund that are not, for the time being, required for the purpose of making payments out of the Fund under *section 7* shall be invested by the Minister for Finance—

(a) in such securities (other than shares in a company) as he or she considers appropriate, or

(b) by deposit of the moneys in a credit institution,

in the currency of the State, whether within the State or not.

(6) The Minister for Finance may from time to time at his or her discretion vary or sell any investments made by him or her under *subsection (5)*.

(7) All income received by the Minister for Finance on investments made by him or her under *subsection (5)* or *(6)* and the proceeds of the sale of any such investments shall be paid into the Fund.

(8) In this section—

“company” means a company—

(a) within the meaning of the Companies Acts, 1963 to 2001, or

(b) incorporated under the law of a place other than the State;

“credit institution” has the same meaning as it has in the European Communities (Consolidated Supervision of Credit Institutions) Regulations, 1992 (S.I. No. 396 of 1992).

4.—(1) The Minister shall, out of moneys provided by the Oireachtas, pay into the Fund—

Payments into the Fund.

(a) the sum of £3,000,000 (€3,809,214), in the financial year 2001,

(b) the sum of £2,000,000 (€2,539,476), in each of the financial years 2002, 2003 and 2004, and

(c) the sum of £1,000,000 (€1,269,738), in the financial year 2005.

(2) The Minister shall pay into the Fund—

(a) the amount of any gift of moneys accepted by him or her under *section 6*,

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(b) the proceeds of the sale or other disposal of any gift of land or other property accepted by him or her under *section 6* which is sold or otherwise disposed of under that section.

Fund not to be used for any other purposes.

5.—Moneys standing to the credit of the Fund shall not be used for any purposes other than those specified in this Act.

Gifts.

6.—(1) Upon a recommendation of the Council, the Minister may accept a gift of moneys, the purpose of the making of which is to benefit the Fund, upon such trusts or conditions (if any) as may be specified by the donor.

(2) Upon the recommendation of the Council, the Minister may, with the consent of the Minister for Finance, accept a gift of land or other property, the purpose of the making of which is to enable the State to realise its value for the benefit of the Fund, upon such trusts or conditions (if any) as may be specified by the donor.

(3) The Minister shall not accept a gift of moneys, land or other property if the trusts or conditions attached to it would be inconsistent with the functions of the Minister or the Minister for Finance under this Act.

(4) The Minister shall, in such manner as he or she, with the consent of the Minister for Finance, determines, sell or otherwise dispose of any land or other property, a gift of which has been accepted under this section.

(5) Nothing in this section shall prejudice any power of the Minister (other than a power under this section) to accept a gift of moneys, land or other property.

Payments out of Fund.

7.—(1) Subject to *subsection (2)*, the Minister may, upon the recommendation of the Council, pay out of the Fund such an amount of moneys as he or she determines for the purpose of defraying, in whole or in part, the expenditure incurred in purchasing a heritage object, where he or she considers it appropriate to so do.

(2) No payment shall be made out of the Fund for a purpose specified in *subsection (1)* if the fair market value of the heritage object concerned is, in the opinion of the Minister, less than—

(a) £250,000 (€317,435), or

(b) such greater amount as may be specified by order of the Minister made with the consent of the Minister for Finance.

(3) Any payment of moneys out of the Fund shall be made to the person who has incurred or will incur the expenditure concerned or, as the case may be, has incurred or will incur the liability to defray such expenditure.

(4) Payments shall only be made out of the Fund with the consent of the Minister for Finance.

(5) An order under *subsection (2)(b)* may specify different amounts in respect of different classes of heritage object.

8.—As soon as may be, but not later than 3 months, after the end of the financial year 2001 and each subsequent financial year, the Minister shall prepare, in the Irish language and the English language, a report with respect to the operation of the Fund during that financial year and shall cause copies of the report to be laid before each House of the Oireachtas and published.

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Annual report.

### PART 3

#### COUNCIL

9.—(1) On the coming into operation of this Act there shall stand established a body to be known as the Council of National Cultural Institutions or, in the Irish language, an Chomhairle um Fhorais Chultúir Náisiúnta (in this Act referred to as “the Council”).

Council.

(2) The Council shall consist of the following members, that is to say:

- (a) the Director of the National Museum of Science and Art,
- (b) the Director of the National Library of Ireland,
- (c) the Director of the National Gallery of Ireland,
- (d) the Director of the Arts Council,
- (e) the Chief Executive of the Heritage Council,
- (f) the Director and Chief Executive Officer of the Irish Museum of Modern Art Company Limited,
- (g) the Director of the National Concert Hall Company Limited,
- (h) the Director of the Chester Beatty Library,
- (i) the Artistic Director of the National Theatre Society Limited, and
- (j) the Director of the National Archives.

10.—(1) The Council shall hold such and so many meetings as may be necessary for the due fulfilment by it of its functions.

Meetings and procedure.

(2) At a meeting of the Council the members of the Council who are present shall choose one of their number to be chairperson of the meeting.

(3) Every question that falls to be decided at a meeting of the Council shall be determined by a majority of the votes of the members of the Council present and voting on the question and, in the case of an equal division of votes, the chairperson of the meeting shall have a second or casting vote.

(4) The Council may act notwithstanding one or more vacancies among its members.

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(5) Subject to the provisions of this Act, the Council shall regulate its procedures by rules or otherwise.

(6) The quorum for a meeting of the Council shall be 6.

Disclosure of certain interests by members of Council.

**11.**—(1) Where at a meeting of the Council a matter falls to be decided by the Council, any member of the Council present at the meeting who otherwise than in his or her capacity as such a member, or as Director, Artistic Director, Chief Executive or Director and Chief Executive Officer (as the case may be) of a body or institution referred to in *section 9*, has an interest in the matter shall—

- (a) at the meeting disclose to the Council the fact of such interest and the nature thereof,
- (b) neither influence nor seek to influence a decision to be made in relation to the matter,
- (c) absent himself or herself from the meeting at that point of the meeting during which the matter is discussed,
- (d) take no part in any deliberation of the Council relating to the matter, and
- (e) not vote on a decision relating to the matter.

(2) Where an interest is disclosed pursuant to this section the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being dealt with by the meeting, the member by whom the disclosure is made shall not be counted in the quorum for the meeting.

(3) Where at a meeting of the Council a question arises as to whether or not a course of conduct, if pursued by a member of the Council, would constitute a failure by him or her to comply with the requirements of *subsection (1)*, the question may be determined by the chairperson of the meeting, whose decision shall be final, and where such a question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.

(4) A person who contravenes this section shall be guilty of an offence.

Prohibition of unauthorised disclosure of information.

**12.**—(1) A person shall not disclose confidential information obtained by him or her while performing duties as a member of the Council (other than to a body or institution referred to in *section 9* of which he or she is Director, Artistic Director, Chief Executive or Director and Chief Executive Officer, as the case may be) unless he or she is duly authorised by the Council to do so.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence.



(3) In this section “confidential information” includes— Pr.3 S12

- (a) information that is expressed by the Council to be confidential either as regards particular information or as regards information of a particular class or description, and
- (b) proposals of a commercial nature.

**13.**—A person guilty of an offence under *section 11* or *12* shall be Penalties.  
liable to a fine not exceeding £1,500 (€1,904) or to a term of imprisonment not exceeding 6 months or to both.